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Alaskan Bush Justice: Legal Centralism Confronts
Social Science Research and Village Alaska

by

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The Environment for Research

In 1970 the Chief Justice of the Alaska State Supreme Court sought to adjust the state justice process to the needs of village Alaska¹ through a process of team research by a lawyer and an anthropologist which he hoped would lead to an agenda for reform. Justice Boney spoke of reforms which acknowledged the local village role in the legal process. He influenced the conclusions of Alaska's first Bush Justice Conference that "the locus of decision making in the administration of justice in village Alaska must move closer to the village," and its calls for "greater Native participation at all levels of the administration of justice" (Alaska Judicial Council, Bush Justice Conference, 1970:2).

The conference stated that "strengthening of village councils is central to the administration of justice in remote Alaska" (Id:2).

Professional justice was also to be improved. Trials were to be held in more rural locations, police and judicial travel budgets were to be increased, and education and recruitment of Natives in each justice bureaucracy was to be accomplished.

It suggested that "(T)he cultural context and impact of judicial administration must be thoroughly understood by all involved in the system of bush justice" (Id:4).

Court arraignments were to be conducted in Native languages and bilingual attorneys or para-professionals were to be recruited (Id:6). That an act was committed pursuant to Native

custom was to be considered as a mitigating factor in sentencing (Id:6).

The University of Alaska was requested to establish an institute to train legal personnel in both rural and urban areas in Native culture and languages (Id:3). The University, state administration and judicial council were to initiate programs of research concerning such areas as the character and processes of village law-making, judicial administration and law enforcement" (Id:5).

This last recommendation is particularly important because it led to my invitation to join the University of Alaska.

These reforms of bush justice were in turn to be implanted in an environment hostile to local innovation or dispersal of power to villages.

The constitution established a centralized court system (with no pockets of local autonomy such as county courts); a Department of Public Safety; a Division of Corrections within the Department of Health and Social Services; a Department of Law; and a state Public Defender Agency. Each of the latter agencies were headed by appointees of the governor. These state agencies had some limited competition from incorporated cities and organized boroughs. But in bush Alaska, it is fair to say that they had free reign over the local level and quality of service.

State agency heads sat on the Governor's Commission for the Administration of Justice headed by Chief Justice Boney. State

law and order money was directed to state agencies not local communities.

Village Alaska had Native representation but no strong advocate for federal dollars.²

The era was marked by the conclusion of the Native land claims debate. The settlement resulted in a prolonged process of land selection and distribution of funds among regional corporations in Alaska. Native legislators did not focus upon bush justice issues in village Alaska. Regionalization was the byword of Native political organization (Conn and Garber, 1981).

With Boney's untimely death in 1972, the impetus for direction of the justice system and content passed back to the discrete departments charged with policing, prosecution, defense and corrections and their professional administration. Continuation of meetings of the Governor's Commission was for little more than a mutual division of the federal spoils.

Villages were to remain legal colonies, subject arbitrarily to either inadequate police assistance or, in other cases, gross overpolicing. Neither village autonomy nor professional service improved. The relationship between village and state law suffered.

For the researcher, then, an evaluation of his role in this process must include very serious professional soul searching. Did his emphasis upon cultural adaptation understate and conceal the political imperatives which dictated the allocation of

resources throughout the period? Did "cultural difference" provide the excuse for justice decision makers to avoid hard decisions within their own realm? Did some spurious allegiance to village autonomy and its local law provide a continuing justification for inadequate state intervention to deal with violent crime?

What is the bush justice system in Alaska?

It is a constitutional scheme of rule making, law enforcement, adjudication, defense and correctional activity which feeds through separate and highly centralized bureaucratic channels from urban Alaska to small towns. From small towns fledgling governmental services flow to networks of rural villages. These 150 villages of 300 persons on the average are predominantly Eskimo or Indian. Village legal connections with the towns are formed in some instances by paraprofessional judges, police or ex-official bodies such as village councils who report some serious cases to state field operatives in towns.³ More often connections are triggered by reports of serious crime and removal of offenders and victims to towns by the appropriate agencies.

In Eskimo village society all law jobs and institutions have been designated by whites. Villagers, however, implemented and developed them. Thus although the "state legal system" and the "village legal system" are both white creations from their inception, each has a differing ongoing creative core. No Eskimo person in Alaska would suggest that village justice systems were constructed to handle all matters serious and unserious; they are

components of the state system whether the state system chooses to acknowledge it or not.

Those with deepest involvement in matters of bush justice must be divided into three camps.

The first camp is that of the legal professionals. They may be divided into policy makers at the top and field operatives at the bottom. At the top of the supreme court is the chief justice, a man deeply concerned with the ideology of due process.⁴ He is particularly concerned with the image of his court. His lieutenant, the administrator of the state court system, is concerned with the health and welfare of his own growing bureaucracy and its competence as measured by the legislature, by practicing attorneys and by high court judges. Their counterparts in the Department of Law are the attorney general and the chief prosecuting attorney. The chief public defender combines the ideological and administrative perspectives.

Field operatives represent the agency in town locations which serve as service centers. A single corrections officer in the town of Bethel, for example, provides juvenile intake and disposition, probation, parole and, presentence reports for convicted felons for a region about the size of the state of Oregon, with 57 villages and 29,000 persons. The town's public defender and assistant district attorney each have the same position within their own bureaucracy and the same village clientele.

The field operatives have direct contact with villages and their justice systems, both official and extraofficial. Their

mandate is to keep their agency's service record clean, "to keep the lid on." Although they have usually very clear perspectives of bush justice, their propensity to blow the whistle on inadequate service and lack of sufficient funds from their agency or from others must be weighed against career considerations.⁵ They are not in a position to change the allocation of resources of their own agencies or of others. Discrete agencies are also not prepared to collaborate at the top though necessity may compel collaboration in the field. Thus in 1975 in Nome, it could be said that the justice system played basketball on Thursday nights. Each system agency views his service and village connections as separate from the other. Only the village views all contact from justice agencies as coming from a single source.

The second camp is comprised of consumers. In 1974 and in 1976 they have been given a chance to express their concerns to justice professionals through Bush Justice Conferences. More often, usually around election time, they have aired their complaints to visiting agency heads in what have been termed "dog and pony shows" (See Easely, 1973).

Those members of this village constituency nominated as magistrates, village police, or correctional aides are set apart from field professionals because they do not enjoy limited professional lines of communication which stretch from town to urban bureaucracies. Village magistrates and village police exist in a nether world, making loose connections between the power structures of state justice and village justice.

The researchers are in a third camp. They were called upon to study the relationships between the state and village justice processes. They also zeroed in on the relationships of Natives to one or both systems each from legal perspectives, historical perspectives, anthropological perspectives, but rarely from political perspectives. Over ten years they researched, tested and recommended solutions to policymaking professionals.

In short, the work of researchers tended to concentrate around the delivery of services to villages and the interplay of village and state legal process.

As with the paraprofessionals, researchers reported to both systems but had a power base in neither.⁶ Outside of the justice bureaucracies they operated somewhat out of control of all key participants but had access to any and all.

The Early Years of The Relationship

In Alaska village councils, locally elected bodies, have now had 60 years of experience in the business of dispute adjustment (See Conn and Hippler, 1973a) or 35 more than the state legal system. Teacher-missionaries introduced these institutions. Their intent appears to have been to use the councils to advance their own agenda: to suppress the manufacture of hootch, to seek out and punish sinners and to urge upon parents the discipline necessary to operate village schools in communities still geared to the rhythms of hunting and fishing.

Councils over time cut loose from teachers and found a place within the larger web of white and Eskimo social control.

In the Eskimo communities, representatives of leading families formed a consensus within councils. Village councils fit within the process of community and state law. Councils backstopped and extended dispute adjustment. Their early style reflected the classic approaches of conflict avoidance - conciliation, gossip, ostracism and counseling among Eskimos. But, as important, they were supported from the outset by white village residents, teacher-missionaries deputized under federal law, the board of elders in Presbyterian and Moravian communities, occasional resident U.S. Commissioners and nonresident marshalls, Coast Guard cutters and even a distant court system (Milan, 1964 and Case, 1978).

Councils were the last stop in a process of evolving interpersonal customary law ways and the first step in a process of Western intervention that could result in referral to a police and court process outside of the village.

Western legal intervention had made impossible (or at least more dangerous) killing or banishment as final steps in a customary legal process. However, to a certain extent it had replaced these ultimate steps with removal into its own legal process in a distant place at the request of village councils.

Councils were most often an Eskimo institution of last resort but even within its processes of case adjustment were opportunities to admit one's guilt, ask forgiveness and be reintegrated into the community. Orientation and not punishment was the usual result of the process. Two or three appearances before a council

could be anticipated before it sought to draw in outside police authority.

Intervention by marshall, Indian police, liquor suppression agents and later territorial police, while limited by geography and state resources, was sufficient in territorial days to reinforce the council when it responded punitively. By reacting to incipient conflict or to the seeds of later conflict, councils avoided confrontation with either villagers or with agents of the official legal system (See Conn and Hippler, 1975).

The Later Years

A variety of factors destabilized the council as a mechanism for dispute adjustment in the years immediately following statehood (1959). In meetings with state officials, council presidents learned that state officials would not support bans on liquor possession or manufacture (Conn, 1981a). "Village rules" were distributed by district attorneys, rules easily transferable into state violations. Two factors made this arrangement unworkable. First, promised supportive intervention by the troopers when councils requested it was not forthcoming. In the Bethel region alone, for example, in 1963 a single trooper provided service to 57 villages.

Villages were informed that they were to handle matters on their own and notify the police only when violent felonies had occurred. Letters to police during the period demonstrate that detailed descriptions of repeated violence were often left unanswered.

A survey conducted by researchers and troopers in 55 villages in 1977 revealed that on the average it took three days for the troopers to respond to a request for assistance (Angell, 1981a). The head of the Department of Public Safety, when confronted with this data, suggested that trooper involvement in the survey had caused village officials to minimize the actual length of time necessary to respond. He suggested that seven days was a more likely figure (Nix interview, 1977).

Inadequate trooper response even after villagers have attempted (on the field operative's instructions) to deal with less serious problems, destroyed the credibility of village law within its own realm. That credibility was, in part, state determined.

Second, in the early 1970's drunken behavior in public or in private was decriminalized. Service centers such as Bethel became ready sources of wage opportunities and bootleg liquor. Youthful populations rose dramatically, partially as a result of improved health care, and populations shifted from villages more distant from towns to those within relatively close proximity to towns.

Impact on Council Justice in the 1970's

Councils as institutions have continued to play a central role in dispute processing in more than a 100 villages without magistrates. Yet to continue that activity councils were forced to become less "council-like," by earlier definitions, and more court-like by magistrate terms.

Councils confronted a more persistent stream of conflicts of a magnitude and severity unlike the immediate past.

With external punitive intervention less reliable, many councils shifted from bodies of reconciliation to bodies which directed fines and other sanctions at offenders. This shift from council-like to court-like approach was never completely successful. Fines were not collectible. Official support for fining was verbal but never explicit. Young persons challenged council authority (See Conn, 1976).

In the late 1960's, the court system introduced appointed Native justices of the peace (called magistrates) into about 30 Native villages. Where this occurred, villages councils deferred to this official authority and refused further complaints (Conn and Hippler, 1973b). Yet because matters heard by councils were often pre-or sublegal in Western terms, because complainants did not wish to confront fellow villagers, and because village policing was unstable, transfer of authority did not induce a transfer of the legal activity. Most villages did not receive magistrates, and could not appoint them without court approval.

Reports from police indicated that by the mid-1970's eighty percent of their arrests still resulted in council and not court disposition.⁷ In a 1977 survey of 55 villages a quarter of all matters processed as criminal law violations resulted in council or problem board disposition (Angell, 1979a). In other words, village police appended themselves to councils, as adjudicative

bodies for minor offenses despite the fact that for the judicial system, councils were illegal institutions.

The irony of the position of the village council by the early 1970's should not be overlooked. As an official matter, the state legal system viewed village council process as an anachronism, a fixture of law ways of a distant past. As an unofficial matter, field professionals armed with mandates from their superiors to carry out impossible tasks of representation, prosecution and law enforcement over distant villages were vocal in their support of what they perceived to be continuing examples of Eskimo justice.

Yet this very encouragement of village justice demanded that the village system shift from a preventative process, capable of anticipating problems, to one that reacted very much like Western systems. The balance of outside intervention with inside deliberation was lost and village councils found their council process mutated out of its original form as it was forced to handle both parts of the process.

When magistrates and village police were offered to villages through appointment and training, the issue was not best articulated as a conflict between law systems, Western and non-Western. Rather, the issue was whether villagers could adequately address their present problems with new Western resources inferior to the working arrangement between formal law and village law of earlier days. The earlier arrangement worked in part because there were fewer problems. But it also worked because it contained support-

ive elements. It allowed legal levels, one consensual, another punitive, to interact. But more than this, by circumstance if not by political intent, it placed in Eskimo hands the authority to draw in external force. Put baldly, Western police did not intercede unless called.

Yet under this new arrangement what appeared to be more de facto control of village affairs was less.

Village Efforts

The record shows persistent attempts by villagers to construct their own system as a component of the state process. Villagers were told to turn back to "the old ways" and draw upon a village consensus for enforcement of village law. But the "old ways" were formed out of a coalition of white and Native authority. The "old way" did not contend with prepaid liquor orders by telephone, improved air and land transport and wage opportunities of a younger generation as demanding of their official legal rights as other Alaskans.

Villages requested assistance in the drafting of their own town statutes. They realized that some skilled professional advice was necessary in order to make the laws enforceable within the state system.

When ordinances were sent to Juneau to an agency constitutionally obligated to help towns and villages, they were filed away without comment.⁸ Villages were left in a legal never-never land as troopers and state officials refused to apply

village ordinances. Even village magistrates scorned village ordinances.

What village justice systems have had to undertake has outstripped their capacity to deal with it pre-emptively. Problems have also overrun their capacity to deal with them in Western terms through policing, judging and jailing (See Angell, 1981a).

Professional Perspectives

The reality of a relationship between white legal agents representative of first military, then territorial, then state authority to small villages has changed little, if at all, in more than a hundred years of contact (Conn, 1981b; Jennes, 1962; and Murton, 1965). What has changed are professional attitudes toward the relationship.

Professional policymakers fail to understand village justice as a component of their own justice system. They view village process as a separate reality from which they with lesser or greater capacity remove cases to be dealt with in the thoroughgoing process that they know to be the "real" justice system, real justice being a process of adversary justice leading to state corrections.

Professional operatives in towns understand the relevance of matters left to village justice. But, for them, these matters are simply problems happily left outside of the realm of their own professional caseload. "Progressive villages" or "villages which handle their own problems" are admired by town-based professionals out of relief more than out of respect (Nix and

Timbers interviews, 1973). Yet few would not concur that real justice as delivered would not be preferable if it could flood the villages.

What professionals fail to perceive is that the interplay of state and village justice must be nurtured and adapted to survive. For villagers engagement of the systems is an historical fact. They have sought collaboration on terms reflective of the stronger aspects of the village justice process and those of the state. This implies shared control of the process.

A working justice process has been the objective of the researchers and, they believe, the village.

Yet does this global objective translate readily into compartmental ideological and administrative considerations of separate justice agencies? Can it be achieved if the idealized goal of planners is a fully articulated western justice system, capable of providing checks and balances, capable of providing due process and law enforcement typical of urban Alaska and urban America whether or not that goal is feasible or desirable?

On what terms then could reforms of bush justice be made? Perspectives and interpretations of "improvement" vary as one isolates interested constituencies. Institutional perspectives and ideological perspectives guide professional judgment.

The administrator of the court system is said to have referred to bush Alaska as a "can of worms." Implantation of a centralized judicial system in farflung town and village Alaska

was problematic. Costs were high. Discovery of persons to fill positions was difficult.

After the state constitution went into effect, the only official judicial activity tolerated was through court personnel. Towns and villages without judges or magistrates could not officially appoint a judge or employ a council as court (Alaska State Constitution Art. 4 Sec 1, 1959).

From an administrator's perspective allocation of judicial resources presented several problems:

- (1) dangers of autonomy borne from distance, lack of supervision and lack of indoctrination into Western legal perspective;
- (2) dangers of community influence on decisions made appropriate to resolution in terms of higher law; and
- (3) problems of management and supervision.

Village magistrate activity displaced judicial activity if cases were heard by magistrates at defendant's request. It was not easily controlled.

Magistrates were appointed by presiding superior court judges of judicial districts who jealously guarded their authority from intrusions by central administration. The court's magistrate supervisor lacked the power to hire and fire magistrates as did villages affected.⁹

Yet for all of these problems, bush magistrates (along with village police) comprised the lion's share of Native participation in the justice system. With a single exception, there are

no Native judges or high administrators in any state justice bureaucracy (Alaska State Court System, 1981).

The professional bureaucratic perspective emphasized supervision and control from higher levels to lower levels. It was difficult if not impossible to establish a system of justice in smaller Native communities satisfactory to this objective.

The village perspective seemed to be a desire for control sufficient to deal with matters early and efficiently and to employ the professional justice system for support when necessary. It implied an autonomy which the centralized system rejected.

Magistrates as Guardians of Due Process

The court looks to its rural magistrates and Native court personnel for interpretation of Western meaning and values underlying instructions in Native languages in criminal and civil cases in rural Alaska.

Yet the Native magistrate's actual capacity to try cases, to advise clients and to reject overtures by police who might attempt to influence the justice process has been a matter of ongoing bureaucratic concern by the state court system in the past 10 years. Two advisory committees of lawyers headed by the chief justice mulled over the problems of that component (Second Magistrate Advisory Committee, 1979). Of primary concern was the challenge of authorizing persons with lay education to adjudicate cases in villages ill-equipped to sustain a judicial officer. Magistrates often lacked proper "facilities" (courtrooms and

jails) and support from police regularly hired.

The court's second magistrate advisory committee considered but then rejected ideas such as (1) village magistrates would accept guilty pleas only, (2) that representation would be afforded in each village case; or (3) that magistrates' cases would be subjected to special ongoing review (Second Magistrate Advisory Committee, 1978) because each would single out Native magistrates from non-Natives.

Researchers pointed out that these lay judges were poorly trained in Western law and operated in isolation of Western justice systems. The court responded by upgrading its internal training program. Yet what they could not create through training was the direct experience of adjudication or court business.

From an administrative point of view, the 28-odd Native magistrates represented a needless drain on resources. The administrators argued that magistrates did not generate caseloads sufficient to be in every village or even in those villages previously selected for magistrate posts. People did not bring many complaints to magistrates. More importantly, most villages lacked facilities and all lacked attorneys. Thus they pressed for these prerequisites to placement of further magistrates. These criteria, it was suggested, would automatically bar placement of magistrates in most Native villages. The criteria were adopted by the committee as advisory and not mandatory (Committee, 1979:2). Unofficially accepted by the court adminis-

tration, their application since 1977 has resulted in no new magistrate posts in 112 Native villages without courts and in removal of five former posts since the committee issued its recommendations in 1979.

To remove magistrates would leave what alternative? The court system has adamantly refused to recognize village council justice as an acceptable component of the process. It ignored a suggestion by researchers that councils act as lay assessors at the sentencing phase (Committee, 1978).

What else could be suggested? The presiding judge of the Fairbanks court suggested that superior court judges, freed from urban court calendars, be assigned to regular village circuits. The circuit proposal was drawn from some limited understanding of the Canadian scheme of judicial service (See Morrow, 1974). Yet what committee members failed to understand, was that the "flying courts" of Canada dealt with a tiny percentage of cases left unhandled by justices of the peace in most settlements. Maps were drawn for the circuits and the idea found its way into the committee's final recommendations. There the plan disappeared with other recommendations, never to reappear on budgetary requests and never to be adopted by the state court system.

The Canadian scheme did not speak to the issue which the court administrators so desired to define out of existence. On what terms would the state provide officially for the daily business of law in small villages?¹⁰

What the court has left in place by near-inaction is a

limited allocation of magistrates in 28 of 140 villages, officially prepared to adjudicate cases, but in fact capable of and positioned only to turn arrests into guilty pleas.

We researchers pointed out that magistrates displaced but did not actually replace village justice systems in Eskimo villages. We and Native organizations advocated and tested variant forms of dispute adjustment more reflective of small villages' needs and capacities ranging from mediation panels which might operate alongside a fining or adjudicative authority to councils or boards vested with the limited judicial authority which the magistrate possessed (See Case, 1977).

As will be seen, the court system toyed with the concept of alternative forms of dispute adjustment, following the first bush justice conference, but then rejected it explicitly as a court function (Second Magistrates Advisory Committee, 1979:19).

The Researchers' Perspective

As researchers, we viewed ourselves as legal culture brokers, prepared to make comprehensible, practical adjustments to both the village and state sides of the justice system.

Our primary target was not a law process as measured by either ideological Western considerations or perceived Native law ways, but what we viewed to be an amalgam of both systems with adjustments necessary on both sides.

Our focus was on the bottom of the system. Our goal was to improve the daily operation of law as reflected in perceived

village needs by developing methods for enhanced interaction between state and village processes as we had come to understand them. These methods were to be sustainable and acceptable to village consumers and justice policymakers and field operatives. We satisfied consumers and field operatives but not policymakers.

The Problem Board Experiment

The problem board experiment was grounded in careful study of the village council process both historical and contemporary throughout the 75 villages which comprise Eskimo Alaska. Assessment of village councils through study of their records and on the scene investigations led to our proposal to the court to test the proposition that a non-adversarial mediation panel could be established in villages. It would deal with matters then deemed inappropriate for either modern councils engaged in fining and jailing extralegally or magistrates (Conn and Hippler, 1974a). In association with the Eskimo village of Emmonak we worked on the process. It was in fact a process of rediscovery since Emmonak had only recently delegated its dispute adjustment to village police and a magistrate. The state had provided these Western law figures with a portable "holding facility" (jail).

The council had been able to drop its role as fining and jailing council. It had done this with some relief.

Villagers recognized that an element of the earlier process was missing. The magistrate spoke of the family counseling she was called upon to undertake. She desired something like the old council to take up this activity. Problems with juveniles and

other problems not clearly legal were mentioned. These were reflective of disputes heard by the village council.

With the village we devised what we called conciliation boards (drawing upon literature on village complaint boards in Ceylon). Villagers changed the name to problem boards. Villagers selected persons capable of problem solving, young and old, all Yupik speaking. They rejected the village priest when he volunteered.

The researchers determined that voluntary conciliation under Alaska law could be used as an alternative to prosecution for misdemeanors in most cases. They emphasized that the board would not and could not fine or jail persons. This would be left up to the magistrate (Conn and Hippler, 1974b).

The village developed the concept on its own. We had anticipated that matters would flow naturally from police to the magistrate and then be diverted by her to the problem board. In fact, what occurred was that matters moved directly and independently to the board (Conn and Hippler, 1975).

The problem board during its test phase dealt with matters which did not have clear legal remedies. These often involved situations involving alcohol which, if left uncounseled, were expected to result in violence.

For example, the board counseled A who gave liquor to B, causing family chaos. It counseled C who teased D for using welfare money to play bingo. When E, a teacher aide, kicked F, a

student, it drew E and G (his parent) together to work out a compromise. It dealt with difficult family problems involving drinking, wife beating and child abuse. Juvenile matters were often considered.

In the main, it anticipated violence. It had no power to fine or jail but could refer (and be referred) cases to and from the magistrate and the police.

The Court Experiment with Problem Boards

When the model became an experimental "program" within the court system, the court personnel in charge selected test villages with little concern for institutional relationships with councils or magistrates.

While the problem board provided a mechanism for Native language speakers of all educational backgrounds to participate, only some villages were given to understand that one's skills at negotiation and conciliation and not youth and education were primary criteria. Others selected callow untrained youth for their boards.

Court personnel did not feel comfortable with village experience at dispute adjustment. They held a workshop for problem board members at an urban resort and had members of the American Arbitration Association employ models of conciliation drawn from labor, prison and other urban settings to teach the Eskimos how to resolve disputes.

Some test villages on their own grafted the board into their

processes with varying degrees of success. In village X near Bethel the board found a niche between the police and now-fining and jailing council (Conn, 1975b). Others saw the problem board as a weak substitute for either a magistrate or council.

The court hired an attorney and anthropologist to evaluate the boards. Although the report was favorable to those boards which had been active, it stressed the limited number of matters heard (Marguez and Serdahely, 1977) and not problems avoided by board activity.

The court's response was to end its association with the experiment. From its perspective, the boards had failed because they had not replaced either magistrates or extra-legal councils which fined or jailed when magistrates or outside assistance was not available.

Although the court disassociated itself from the project, a 55 village survey two years later discovered three of the six problem boards established were still in operation (Angell, 1979b).

Paralegals

Unlike the new, urban private law legal assistants who have evolved into a discrete professional category by taking upon themselves a variety of lawyer's tasks, we viewed rural paralegals located in towns and villages as capable of performing activities not then undertaken by either professionals or members of the village justice systems (Conn and Hippler, 1973b; Conn, 1974).

The town paralegal's work was to combine town and village justice. By moving out from the town to villages where crimes had occurred, the rural paralegal would investigate and report back to the professional those social facts (as well as legal facts) overlooked by police. The police report had almost exclusive bearing on legal decisions, such as bail, screening, charges, case organization and disposition. No longer would the professional have to depend on a police report or on conventional wisdom among field professionals to evaluate his case with an eye toward its impact on the real community affected.

Our belief in village paralegals stemmed from several considerations. First, we had recognized and reported on the dependence of the rural justice process upon paralegals in a variety of village roles (Conn and Hippler, 1973b). Second, we were convinced that the state legal process would not be introduced in village Alaska with any balanced concern for the integrity of either the Western process or understanding of the village law process, its strengths and its weaknesses. We perceived that, at best, state justice agencies would make village connections with a magistrate and a policeman. The screening function so essential to the integrity of both systems, carried on previously by the council, or left to a village policeman would be ignored or left to chance (Conn, 1975a). Professionalization would increase the tendency to intervene in village matters without concern for the propriety of that intervention on the single dispute or on the village law process.

Projects Accomplished and Their Bureaucratic Response

In the years that followed we were able to test the proposition of the town based paralegal who worked for either a district attorney or public defender. A training-tutorial mechanism was established in both Nome and Bethel.

Bush professionals, especially prosecutors, remarked that their professional collaboration with villages were enhanced. Trainees became serious members of the rural process.

Yet in this instance as in many others where plans proposed or actually implemented at the town and village level received strong support from field professionals and village residents alike, reaction from urban bureaucracies was indifferent or hostile.

LEAA representatives from Seattle questioned the use of \$100,000 to underwrite the establishment of regional training programs whose end result was apparently four new paraprofessionals. Their concern was sufficient to induce the state Criminal Justice Planning Agency in Juneau to ignore the project.

The state attorney general had promised in writing to budget permanent positions for successful trainees. He attempted to renege on his promise. Only the threat of newspaper exposure by the Bethel trainee saved his job. He was the only Native member of the rural Department of Law.

A paralegal trainee with the Public Defender Agency also received high marks. Yet when the agency was in need of a second

town attorney, she was encouraged to resign. She became a magistrate.

The Alaska Division of Personnel unilaterally defined paralegal positions and established testing procedures. No provision was made for rural job requirements (including language competence). The district attorney's paralegal failed the test.

Village Paralegals

The Alaska Legal Services Corporation established paralegal positions in Native villages on Alaska's North Slope. These trainees were educated to discover and investigate Western law problems and to channel cases into the state process and back into the village realm.

Yet, when Alaska Federation of Natives funding from its federal CETA program disappeared, the village paralegals lost their positions, becoming more in a long line of Native men and women "trained into oblivion."

What do these experiments suggest about rural justice? It would appear that no experiment, however well attuned to village needs or cultural values, however well-received by villagers and however useful to field operatives and their limited resources will succeed without overcoming priorities both ideological and institutional which are more important than a rural justice system that works.

The Present

A 1977 study of 55 villages indicates that the carnage of

village Alaska is now truly impressive with murder, rape and violent crime rates two and three times the state average and many times those of the nation (Angell, 1981a).¹¹

Village councils persevere in 25 percent of the sample surveyed, skewed in fact to favor villages with magistrate service (Angell, 1981a). Villages depend upon outside police service or service of constables who act as liaisons to state troopers. Village control has been weakened and not strengthened.

The court system has disavowed rural trials where facilities are inadequate to house personnel (Supreme Court rule 18-1). It has disavowed experiments with alternative forms of dispute resolution. It has not acted upon plans proposed to it to attempt circuit riding. It trained and then forgot court interpreters (See Annual Report, Alaska State Court System, 1981).¹²

When its developed in-house research organ discovered that Natives in urban courts receive longer prison terms for non-violent offenses (Alaska Judicial Council, 1979), its judges attacked the problem by bringing up to the level of Natives, non-Native's sentences and not by encouraging correctional alternatives (Alaska Judicial Council, 1980).¹³

Magistrates placed in earlier days exist as curious anachronisms in rural villages, hearing fewer cases than councils did in their extra-legal state or even than the problem boards rejected by the court (Alaska State Court System, 1981).

Paralegals trained to work with bush district attorneys and

public defenders have been forced to resign by their bureaucracies even in the face of support by field personnel. The state personnel department has developed a test for such state positions which ignores language and job competence and emphasizes skills in math competence.

The Department of Public Safety has received funds to place village police in villages along with detention systems, creating a partial Western system.¹⁴

The Division of Corrections has provided no new correctional personnel to rural Alaska in ten years. Its dubious contribution has been to make old town jails (in Bethel and Nome) over into modern town jails.

Since police are more mobile than other components of the system, and more receptive to bush service, this means construction of law systems that could make of villages "closed institutions" with guards and cells (Goffman, 1961).

We as researchers, fascinated both with cultural pluralism and committed to research leading to reform, must search our souls and consider whether or not the fruit of our labor has resulted in a legal process acceptable to any standard of justice or to none at all. Those of us who are lawyers first and anthropologists second must consider whether we should steer away from research and lend our skills to law reform and political pressure and not to adaptation of the legal process and roles to fit small village situations.

Were researchers deceived or did they allow themselves to be deceived? Were they blind to overriding political considerations that made of "cultural relevance" a convenient excuse for bureaucracies to employ unless or until they were prepared to establish a partial copy of their system in village Alaska, a system unacceptable by either state or village standards?

We who are infatuated with the opportunities for redefining a state law process to benefit an environment marked by cultural pluralism may find our work manipulated by those who underwrite it and apparently embrace it. From our global perspective should we not be impressed by the political imperatives that govern the entire process of bush justice? Chief among these is a battle for control of resources and populations which relinquishes none of that control to indigenous minorities on any terms without a fight.

In Alaska, for example, it must be asked whether state authorities want village Alaska to survive. Is it not likely that state authorities would prefer an in-migration of Natives into its cities, that in 1991 Natives sell their shares of land claims awards and rest easily on their dividends in Anchorage condominiums?

Destabilization of village life may in the end be desired over improved service. Despite the historical adaptation of Western law process to changing social and economic needs, present policymakers and field operatives believe that the systems in which they function are a kind of evolutionary by-product, natural

and appropriate to all places and persons within the American political domain.

Though we may have scholars and historians who decry the phenomenon, is it not the underlying message of Alaska legal development that the consumers and their problems must fit the process and not the converse (See Friedman, 1973)?

The force of legal assimilation is the dominant force and adaptations in the name of cultural imperatives are mere pauses (or worse than this, excuses) which conceal a longer term trend.

As researchers, we in Alaska have tinkered with the system. We have listened and attempted to innovate within the system. What we did not accomplish was to draw Natives into the process as players, capable of negotiating change, possssing power and ultimately manipulating the system as co- or near- equals to other players.

Manipulation and partial control of the system does not mean participation in bush conferences, seats on advisory committees or even membership in lower ranks of justice or police bureaucracies. It means negotiating on legal process from positions of power.

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Footnotes

1 In the 566,000 square mile state of Alaska, half of the population live in towns and villages usually accessible only by river, sea or air. Within the latter rural population are 55,000 Indians, Eskimos and Aleuts who reside in about 140 villages with populations from 25 to 700 persons and 300 persons on average. Another half dozen Native towns have populations from 1,500 to 3,000 persons. "Bush justice" is the Alaskan term for legal process which affects these predominantly Native villages and towns.

2 Criminal Justice Planner Butch Schwartz reported that only 10.8 percent of Alaska's LEAA block grants and 11.1 of all LEAA funds directly benefited bush areas. Eighty percent of this amount went to construct five jails and to police programs. Schwartz, 1973:4. Angell (1981) reports that while small white communities are isolated for purposes of data collection in police statistics, village Alaska is included in a catchall category. Nearly all white communities have a judicial officer.

3 There are at least 112 small predominantly Native Alaskan cities (termed "Native villages") without resident state judicial officers. John Angell (1981) reports that only half of about 55 villages surveyed had even a part time policeman.

4 Said the State Supreme Court in Gregory v. State (1976), "We. . . recognize that the trial court is obligated to be certain that each citizen, when involved in a criminal matter, is aware of the various rights guaranteed him by the Alaska and

United States Constitution." To this was footnoted the following:

"The Anglo-American system of justice differs substantially from the traditional Indian, Eskimo and Aleut systems, which pre-dated Western cultures by hundreds of years. The cultural difficulties experienced by many of the Alaska Natives as the contemporary Anglo-American institutions reach out to the bush communities require that the State legal system use extreme care in cases of this nature. Therefore, in those areas where a substantial portion of the populations consists of Native Alaskans, we urge the administrative office of the court system to develop bilingual explanations of basic rights for those who appear in criminal proceedings so that all citizens are clearly aware of their constitutional rights." Gregory at p. 380.

5 Of course differing discoveries by researchers or journalists or complaints lodged in higher courts had differing impacts on state bureaucracies.

For example, the Department of Public Safety actively supported research which discovered that violent crimes had overrun limited village and state resources. Its desire was to shift resources from urban areas (where they competed with urban police) to rural sectors. Village police were taken under the wing of the Department of Public Safety (and even funded in 1981 by them) as useful aides capable of dealing with minor drunken behavior without usurping primary police activities when major crime occurred.

6 Annotated descriptions of twenty articles, books, and papers written by Conn on rural justice appear in Donna L. Kydd, Ed., Towards A Legal Education and Information Program for Natives, Native Law Center, University of Saskatchewan, Saskatoon, Canada, 1979.

7 "During . . . (1972) the Village Policemen handled ten felony cases, 418 misdemeanors, and numerous noncriminal complaints. Seven of the felonies resulted in court action and 128 of the misdemeanors resulted in court action. One hundred and fifty-one of the misdemeanors were handled by the Village Policemen without court or Council action." (Village Police Training Annual Report, 1972, p. 1.)

As the project director described it in presenting other statistics for the year which showed court action on 63 cases and council action on 171, "[They] also illustrate a unique relationship of two branches of government within the Criminal Justice system." (W. Nix, Subgrantee Professional Report, April 11, 1972, p. 2.) The report noted, "the council has levied \$1,835.00 in fines, and 38 days of jail time. In almost every case, days of work for the village satisfied council sentences."

8 In 1973, the Department of Law passed over protest passages of a book on formation of a second class city to be used by many villages. The book stated that councils could fine or jail persons for violation of local ordinances if the offender agreed to the punishment. See What's a Second Class City?, pp. 2-3, Cooperative Extension Service, University of Alaska in cooperation with the Department of Community and Regional Affairs, State of Alaska, 1972.

9 When, for example, it was discovered by the Alaska Federation of Natives that the Dillingham magistrate was a racist missionary who demanded that Natives swear off drink, who per-

suaded them not to request an attorney and who refused to visit surrounding villages, the court could do nothing. His refusal to send in documentation of his cases also prompted no disciplinary action.

Ironically when magistrate A retired and was replaced by B, a legal services attorney, B was fired by the presiding judge for living with a mate in an unmarried state. The supreme court upheld the presiding judge.

10 Angell (1981) estimates that in villages he surveyed, legal professionals, other than troopers, appeared once a year or less. His conclusions seem to be reflected in an evaluation by village officials of state government agents. See Angell's chart reproduced as Appendix 1.

11 See Appendix 2.

12 Alaska Native adult males comprised 32.2 percent of the state jail population in 1980. Source: Frank Sauser, State Division of Corrections. The Native population (average age 16) comprised 16 percent of the population.

13 See Appendix 3.

PUBLIC OFFICIALS ASSESSMENTS OF
QUALITY OF JUSTICE AND SELECTED PUBLIC SERVICES

	GOOD		OK		NEEDS IMPROV.		INADE- QUATE		NO SERVICE		N.R./ DON'T KNOW	
	#	%	#	%	#	%	#	%	#	%	#	%
Village Police	7	13.7	6	11.8	20	39.2	5	9.8	13	25.5		
AST	13	25.5	12	23.5	14	27.5	10	19.6	1	2.0	1	2.0
A F & W	7	13.7	6	11.8	17	33.3	13	25.5	4	7.8	4	7.8
Magistrates	14	27.5	7	13.7	8	15.7	3	5.9	14	27.5	5	9.8
Legal Services	8	15.7	10	19.6	7	13.7	7	13.7	14	27.5	5	9.8
Prosecutor	3	5.9	11	21.6	9	17.6	5	9.8	11	21.6	12	23.5
Defense Services	4	7.8	9	17.6	3	5.9	4	7.8	20	39.2	11	21.6
Probation/Parole	8	15.7	8	15.7	7	13.7	8	15.7	12	23.5	8	15.8
Local Jail	2	3.9	3	5.9	11	21.6	9	17.9	22	43.1	4	7.8
Mental Health	4	7.8	3	5.9	6	11.8	4	7.8	29	56.9	5	9.8
Medical Services	15	29.4	11	21.6	17	33.3	4	7.8	2	3.9	2	3.9
State Jail	6	11.8	13	25.5	2	3.9	2	3.9	16	31.4	12	23.5
Educational Services	22	43.1	9	17.6	18	35.3	2	3.9	0	0	0	0
Fire	0	0	3	5.9	19	37.3	9	17.6	19	37.3	1	2.0
Welfare, Unempl.	10	19.6	16	31.4	13	25.5	6	11.8	2	3.9	4	7.8
Youth Services	0	0	1	2.0	7	13.7	13	25.5	28	54.9	2	4.0

APPENDIX 1

Source: Angell, John E. (1981) Public Safety in the Justice System in Alaskan Native Villages, page 39.

APPENDIX 2

COMPARISON OF ALASKA VILLAGES, ALASKA STATEWIDE, AND UNITED STATES CRIME RATES

CATEGORY OF CRIME	RATES*		
	ALASKA VILLAGES	ALASKA STATEWIDE	UNITED STATES
Homicide	28.4	10.9	8.8
Rape	99.2	50.3	26.4
Robbery	127.6	96.5	195.8
Aggravated Assault	326.0	286.5	228.6
Burglary	936.8	1310.2	1439.4
Vehicle Theft	446.5	3272.6	2921.3
Simple Assault	354.3	783.7	446.1

*Per 100,000 population in 1977.

Source: Angell, John E. (1981) Public Safety in the Justice System in Alaskan Native Villages, page 27.

APPENDIX 3

STATEWIDE JUVENILE ARREST RATE PER 100,000 INDIVIDUALS

1978 STATEWIDE COUNT

	<u>White</u>	<u>Black</u>	<u>American Indian</u>	<u>Other</u>	<u>Total</u>
Burglary	368	12	98	67	545
Larceny	1,361	85	304	43	1,793
Drug Abuse	419	15	57	19	510
Liquor Laws	403	3	308	183	897
All Other Offenses	230	7	67	15	319
Curfew & Loitering	173	2	32	19	226
All Crimes	3,998	149	1,300	500	5,947

1978 STATEWIDE ARREST RATE PER 100,000 INDIVIDUALS

	<u>White</u>	<u>Black</u>	<u>American Indian</u>	<u>Other</u>	<u>Total</u>
Burglary	245.7	212.6	951.8	275.7	286.9
Larceny	908.9	1,506.5	2,952.6	176.9	943.8
Drug Abuse	279.8	265.8	553.6	78.2	268.4
Liquor Laws	269.1	53.1	2,991.4	753.2	472.2
All Other Offenses	153.6	12.4	650.7	61.7	167.9
Curfew & Loitering	115.5	35.4	310.8	78.2	118.9
All Crimes	2,670.1	2,640.9	12,626.3	2,057.8	3,130.5
<u>Base Population</u>	149,735	5,642	10,297	24,297	189,970

Source: Bayley, Bruce, et al (1980) A Statistical Analysis of Discrimination in the Alaska Criminal Justice System. Vancouver, Washington: Cascade Research Center.

BUSH JUSTICE AND DEVELOPMENT IN ALASKA:
WHY LEGAL PROCESS IN VILLAGE ALASKA HAS
NOT KEPT UP WITH CHANGING NEEDS

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Introduction

For more than ten years, as researcher and as attorney, I have studied what Alaskans term "bush justice," the delivery and implantation of state law and order services upon nearly twenty percent of Alaska's population who reside in more than one hundred isolated villages and towns.¹

The legal services herein described are fundamental to the American legal culture. They include:

(1) police services - the expectation that some level of police protection and some level of reaction to crimes can and will occur on a daily basis and with regularity;

(2) judicial and dispute resolution services - an expectation that a forum will be available to deal with minor and major disputes and law violations by adults and by juveniles; and

(3) representational services - that trained advocates will interpret law for citizens and represent either community or individual interest when they are in conflict.

There is a further premise operative in American legal culture. It is the notion that the machinery of law is guided by community needs and expectations.

Community needs are expressed through a local law base. Community will is reflected then in the enforcement of laws desired by the community. Direct participation in each of the above named activities is a second way that community needs are met. Local people are not only law givers but implement the law given as players in the system. Finally, the American process

provides for participation by local citizens as jurists, as witnesses, complainants and observers.

There are evident tensions within any community. Although there is a tendency to speak of villages in Alaska as though each (or all) have a single personality there are tensions between individual interests and some illusive "community will," even there.

To address these evident tensions, checks and balances are developed in the American legal process. Thus, we depend not merely upon an erudite judge to discover the truth, but also upon a clash between competing interests within the legal system.

The notions that individual communities within larger societies are entitled to have a law process which is appropriate to their needs and to some extent guided by the political and social will of that community is not necessarily an attribute of all legal cultures in all countries. However, it is very much the sense of American law in the history of its development. Perhaps because American communities received only the law services which they choose to pay for and engraft, institutions of law and law jobs tended historically to be directly reflective of problems and solutions which needed a legal solution. Legal process shared the stage as a secondary player with other forms of social control. As communities from colonial times onward perceived that social control through familial and economic structure could no longer contain forms of deviant behavior, these forms of deviance were recast as legal deviance. Procedures were

implanted to address them which were legal rather than social.

Even then, the formal legal approach remained as a backdrop to social control for most members of small communities. Communities in the American West moved from non-legal social control to vigilante justice (termed here extra-legal) to formal justice in what was not in fact a sequence so much as a succession of overlapping waves. This interaction between social non-legal control, extra-legal social control and formal legal control is a complex relationship which few social scientists and most assuredly few legal professionals understand. In fact, as the Alaska case will demonstrate, few legal professionals desire to understand that elements of non-legal social control, extra-legal social control and formal legal process complement one another and compete for favor and dominance in the same place at the same time.

Extra-legal process does not disappear with the assertion of authority by official forms of law and order. It can and does reassert itself in communities where formal law is incapable of meeting broad-based community expectations.

These three components of the legal culture of village Alaska and of virtually any community large or small each service its needs. The components interact and interrelate.

Non-legal Social Control

Non-legal social control has rules and sanctions which can be viewed as the etiquette of the setting. While etiquette is a term which suggests no more than the finishing touches of behav-

ior, it is used here to encapsulate those non-institutionalized rules and sanctions which separate members from strangers. Rule violation can drive members into exile; sanctions can drive members mad.²

The etiquette of the setting (Black, 1976:36) derives its force from a desire of persons to belong to a group, and to retain the advantages of membership then and in the future.

This process of social control works very well upon persons engaged in longterm and dependent relationships. It works very poorly when strangers are involved, persons with no special stake in the community or concern for the community's perception of them. It works very poorly when the arbiters of etiquette are called into question or when once cohesive societies lose their cohesion (Conn and Hippler, 1973).

Extra-Legal Control

Within the category of extra-legal control and processes are both appendages and repackaged versions of formal law and appendages and repackagings of non-legal social control. Lines of identity and control flow in both directions.

The village council has been the historical vehicle for extra-legal activity in village Alaska (Conn and Hippler, 1975). Extra-legal process binds and draws upon both non-legal social control and legal authority but in fact has a separate identity. Extra-legal process institutionalizes in a demi-legal fashion, non-legal social control. It collects and focuses social pressure upon recalcitrant members and "educates" strangers (or

persons with very limited knowledge of or stake in village opinion). It often "legalizes" social pressure by means of threats or enforcement of fines or other legal sanctions (Conn and Hippler, 1974).

Extra-legal process also draws upon and controls formal legal process to the extent that it determines when formal intervention should occur. It is reinforced by formal legal process in an unofficial manner when it is granted the authority to accomplish a variety of sublegal tasks or to report formal law violations. This role has the effect of extending the reach of official law into places and circumstances where it cannot or will not reach on its own. What the extra-legal authority receives in exchange for this responsibility is a kind of derivative power which it can direct to other less clearly authorized tasks.

"Unless you listen to us with respect to this now-institutionalized non-legal rule violation, X" says extra-legal authority, Y, "We will report you and call into play intervention by formal authority for law violation, Z" (see Conn, 1976:217-24).

Extra-legal authority brokers social control and law and packages both into a new form. That form and its role is highly changeable because it is most dependent upon the forces and demands of non-legal social control and the forces and demands of state law givers. In Alaska these state law givers operate from towns which service clusters of villages.³

Extra-legal authority is the dynamic force which "makes law

happen" in places where neither social control nor formal law can or will dominate the hearts, minds and lives of the people involved. It is most susceptible to changing needs, but it is also most fragile of the three named forces which make up legal culture in village Alaska.

Formal law has power beyond the comprehension of its own purveyors to drive extra-legal authority from its place in the center of legal culture. It can displace without replacing extra-legal institutions which have institutionalized rules which are not legal and which have proffered the desired approaches to problem solving and dispute resolution be they legal or extra-legal. Ironically, it can also weaken extra-legal authority by inaction when that same authority requests intervention. Formal law must not be either too strong or too weak in its association with extra-legal authority. It must allow extra-legal authority to guide it in this respect.

To assess the role of state law in meeting the changing needs of village Alaska one must understand a longterm and historic relationship between Eskimo or Indian social control, hybrid forms of village-based extra-legal authority, and town-based personnel who represent state legal process.

The legal process which addresses the needs of village Alaska and operates therein is usually poorly conceptualized by students of the subject. Yet without correct conceptualization one cannot understand why that process has faltered and failed even as more state resources have been introduced into the process.

How can more equal less?

The village of P, 40 miles from town, typifies this curious phenomenon. P has every resource presently available to rural communities by way of law and order. It has a resident part-time magistrate to handle misdemeanors. Its two cell lockup and police station houses the office of a state trooper constable, a Village Public Safety Officer (VPSO), and a village policeman. The former is an employee of the Department of Public Safety who handles criminal offenses of every kind in P and in neighboring villages of Q and R. Trooper constables are allowed to remain in rural locations permanently and are hired against somewhat reduced standards in order to attract rural persons who might not qualify as troopers or desire to rotate into the cities.

The VPSO is an unarmed multipurpose policeman, trained in emergency medical care and in firefighting, who handles lesser offenses and holds the scene for either town-based troopers or for the trooper constable. VPSO's are paid by the legislature through the Department of Public Safety and regionally-based non-profit Native corporations (see Sellin, 1981).

Town-based services include a trooper contingent, a superior court judge, a public defender, a soon-to-be-placed district attorney, and a legal services attorney. Correctional probation-parole services are provided from Nome. Youth services are provided in town.

P, along with about sixty other villages, has adopted a state local option law which prohibits importation or sale of alcoholic

beverages.

Eight years before I surveyed the same village justice system. P had a magistrate then as now. The difference was that eight years ago she was hiding from her intoxicated husband. One of its local village police had burned down his own home during a drinking bout. The other was drunk during our visit.

The magistrate and police operated out of a modular court and lockup facility (a trailer) barged up the P river by the court system. The magistrate had stacks of unopened legal materials in her office.

In town, the trooper contingent was half of its present composition (two instead of four). The town had a magistrate, but no lawyers other than a legal services attorney. The town had an Alaska Native correctional aide for both juveniles and adults.

Today there is more law available to P if law is the accumulation of law givers or legal resources. The village policeman, the town-based youth services aide and the magistrate are Alaska Natives. However, the village policeman and magistrate are from other villages. Other figures are non-Natives and are from other places. Problems of "arresting one's brother," often voiced as the reason why hiring local residents has been difficult for justice agencies, had been obviated by hiring transient figures, both Native and non-Native.

P has a magistrate. One hundred and thirty-five other villages lack any state-appointed judicial officer. P has a VPSO.

At least eighty villages lack a VPSO and must hire and pay their own police. P has a trooper constable. Only a very few villages have trooper constables.

P has changed in other ways. Its population has nearly doubled in the eight years between field visits from 400 to 750 people. It has a high school in its village. It has television and a phone system, new in eight years. A bridge spans the P river. It has three flights from town daily instead of one.

Yet the village council has complaints about its legal situation. Small kids and young people drink and disobey curfew. The magistrate is never in her office. The town has no interest in these small matters. The VPSO and trooper constable make unnecessary arrests. They pick on people. They influence the magistrate to sentence residents to fines and jail terms out of proportion to the offense. The police don't listen to the council and question local ordinances.

The police are unhappy. The youth jeer at them. The town social worker and youth services aide tell the VPSO to leave the kids alone.

In August, 1983, a summertime population of young adults repealed the local option law. For three months arrests were constant, at least four times the number of arrests during the previous seven months of 1983. The council had to take to the streets when the village police quit working. Council members put 27 persons in two cells in a single night.

The village voted to ban importation again in November. But, complain the councilmen, people have learned to sneak liquor into the village.

"Why can't we search their baggage?" they ask (see Lonner and Duff, 1983).

A neighboring village repealed the local option law after three suicides in rapid succession. People have discovered that the law does not enforce itself and that there are severe limits on the way it can be enforced constitutionally.

There is a numbing sense of loss in P. Councilmen tell the author the same stories about the old council of the 1930s and 1940s that they related to him in 1976: The council once put a woman and a man who misbehaved outside without clothes. Children were switched with willow branches for acting out.

Is this nostalgia for Eskimo law ways? Is it nostalgia for a time when non-legal social control and council justice played a central role in dealing with legal needs? Or is it nostalgia for a legal system in which some element of authority remained in the village?

P's city council is not the village council of yesteryear. Its agenda is heavy with projects not unlike those of any small town in America.

It meets with its professional grantsman on important capital improvement projects; wooden sidewalks for the village, new washers and dryers, and transfer of school housing to the

village.

The council members are a mix of young and old. All are aware that P floats in a sea of legal jargon and regulations.

When P's council considers applications for the jail attendant, the issue of an applicant's age arises. Can an applicant be under 19? Council members scurry to find the answer in the magistrate's set of statutes and in her administrative regs. Not finding it, they call the corrections officer in Nome to find out.

The fear of breaking the law and being sued is very real. That this sensitivity is so prevalent and so very high in places where the ability to bring or respond to a law suit is close to nonexistent is one of the ironies of bush justice today.

Those who view village initiatives to improve their legal system as attempts to challenge the state legal system or even to separate the village as a legal place from the system that envelops the village sadly misinterpret the village perspective. For village Alaska, the time when Eskimo peoples floated free of Western law is a distant moment in time as removed from village experience as it is from most community experience in the Western United States.

A working relationship between formal law, extra-legal authority and social control has persisted since the late 19th century (Conn, 1980). What is now different for village Alaska is the level of autonomy available to the extra-legal component

and, through it, to P. There has been a relationship between the three aspects of P's legal culture since the first teacher-missionaries appeared on the scene. What has changed is the shape of the legal process as well as P's capacity to guide that process to its determined needs.

The Structure of the Legal System

With the exception of the village policeman, each member of P's legal community has been hired and is subject to control by a different state or town-based bureaucracy. Each has a vertical relationship to persons outside of the village that guides the way each does his or her job. In fact, the state legal agents in P relate to town in the exact fashion that town-based professionals relate to Nome (the hub of the judicial district) and that Nome-based professionals relate to superiors in Anchorage and in Juneau.

P experiences law and order as it is served up by a coalition of vertically directed figures placed in P and subject to removal from P by town and city-based supervisors.

P experiences law but does not guide it. P is given the law which separately trained and separately assigned representatives of separately managed state bureaucratic units see fit to provide.

What P can obtain from state law is some after-the-fact reaction to P's most serious problems. If P complains to any single bureaucracy about its service, the chances are good that its agent in P will be removed to X, Y or Z or any of a hundred

plus villages who lack the resources of P and would very much desire them.

What P has received is a "trickle down" justice system of parajudges and parapolice, mere scraps of an American law system injected into an Eskimo village. P is a base for a collection of random legal offerings it does not guide or control.

Bush justice has become rural ghetto justice.

Development in a Village Context

Changes in Alaskan village life have occurred within the context of Alaska development during the past two decades. The replacement of territorial government with state government, the development of transportation and communication networks, the Alaska Native Claims Settlement Act, the construction of the TransAlaska Pipeline and consequent explosion of government spending have all left their marks on the village landscapes.

While division of these events into historical stages is difficult - most especially because regions of bush Alaska have historically felt change at different times and at different degrees when compared with each other or when clusters of villages are compared in a single region - two periods are notable for their influence when the combined forces of development and changing legal needs are considered.

First, the early 1960's when Alaska state law personnel replaced territorial law personnel in the towns which service village Alaska. They refused to reinforce prohibitions on Native

drinking by extra-legal village authority, the single most persistent role of white legal officialdom from the Russians to statehood (see Conn, 1980).

In a shift of legal position which caught many villages by surprise, the state refused to validate village council bans on the manufacture of hootch or to impose other limits on transportation of liquor from towns (Conn, 1982). The district attorneys and bush troopers were prepared as a de facto matter to reinforce enforcement of villages rules by transposing some of these violations into state law violations after several attempts by the council to act. The very limited allocation of police and prosecutorial services to rural Alaska sharply diminished the reliability of this approach and, consequently, the credibility of both state law and council justice in the eyes of many villagers.

This weakening in the working relationship between formal law and extra-legal mechanisms such as the village council was coincidental with developmental shifts that demanded more legal presence in the villages rather than less.

In Southwestern Alaska where the largest numbers of village Eskimos and Indians reside, Bethel emerged as a source of wages and liquor. In the midst of a population explosion, the region's young men and women migrated toward villages more proximate to Bethel.⁴

In a series of meetings, the Association of Village Council Presidents decried the opening of a liquor store and bars in Bethel. Councilmen equated the death of their young men in

alcohol-related accidents, shootings and suicides to war; they requested legal advice to contain Bethel's influence on their villages (Conn, 1982:25-27).⁵

What they received were admonitions against illegal acts by their councils and advice that only Bethel citizens could deal directly with Bethel's liquor situation whatever the impact on surrounding satellite villages. Councilmen were told to write the governor and the Alcohol Beverage Control Board. As to their own local problems, they were advised to develop consensual approaches to problems which could not be dealt with by state law.

Without reliable support from town-based legal personnel, councils became more like police courts which meted out fines and even jail terms and less like brokering institutions which stressed compromise and counseling as a prelude to "calling in the law."

Village councils could not act as courts under state law. Only court appointed magistrates could undertake that task. The court system placed magistrates in about sixty villages in the late 1960s, employing War on Poverty funds, but were never pleased by the administrative and operational problems caused by designating parajudges to distant villages. After two magistrate study boards met to consider the subject in the early and mid-1970s, the court system retreated to the proposition that town-based judicial officers should handle village problems large and small once they were termed "legal." The size of the magistrate

system was not increased.

What placement of magistrates accomplished from the village perspective was to implant an agent of state law into the village. He or she had unquestioned authority to handle minor criminal matters and small civil claims. What she lacked was the capacity to buttress social control in the village with approaches familiar and acceptable to village people. Village councils had autonomy which magistrates lacked. Also, removed from their jurisdiction were children's problems and a range of extra-legal prohibitions on behavior.

Magistrates could displace but not easily replace the extra-legal brokering component of village culture (Conn and Hippler, 1973). As part-time court employees very low on the organizational totem pole, they were also in no position to initiate reforms.

The Structure of State Law and its Influence

The destabilization of village council justice occurred for reasons which would have continuing influence on the issue of legal planning to meet changing village needs, both in the 1960s and in the decade thereafter.

The legal process of Alaska was packaged constitutionally in separately administered, highly centralized departments and divisions. The court system, the Department of Public Safety, the Department of Law, the Division of Corrections (and later the Division of Youth Services) and the Public Defender Agency emerged as independently administered fiefdoms (Conn, 1981).

For most of these agencies, bush responsibilities were satisfied by placing departmental representatives in as few regional centers as possible and by drawing villages' problems into towns and cities.

Only the Department of Public Safety viewed the bush as its principal constituency as urban police departments made trooper work less essential in the state's population centers. But this enthusiasm for bush service on the part of the troopers did not result in placement of officers in all settlements as in Canada. The troopers, also, chose to follow the territorial model and place its detachments in towns.

Each component of the justice system had its own determined service boundaries. The court system continued to use the judicial districts inherited from riverboat days (with some slight variations). Decisions on professional placement and decisions on data gathering and record keeping were independently made. Records on village Alaska were intermingled with those of urban centers by all agencies.

To what extent had the state accepted its responsibility to offer services to Native villages in rural Alaska?

Though it can hardly be verified scientifically, there appears to have been an inherited state governmental attitude that the federal government would take care of Native problems, this despite the fact that Congress in 1958 extended territorial (later state law) over criminal and some civil offenses in Indian country within Alaska.⁶

In territorial days there had been some structural division between governance for whites and governance for non-whites in the territory. The special provision for schooling of Alaska Natives as Native Americans in Bureau of Indian Affairs village and boarding schools was a good example of this division. Hospital care for Natives through Alaska Native Service facilities was another.

Teaching and law and order had been introduced together by deputizing teachers who set about organizing early village councils (Strickland, ed., et al., 1982:764). Though both federal and state officials had apparently forgotten it by statehood, the Congress and Interior department had validated the village councils' authority to act as tribal governing bodies of Indian Reorganization Act communities in the 1930s. This potential tribal legal authority of villages to handle some of their own law and order matters was not argued again until nearly twenty-five years after statehood (Case, 1978).

Although villages near Bethel discovered in the early 1960s that a working relationship between formal law and village authority had broken down, many other rural areas did not see this as critical until later. Developmental events had impacts that differed from region to region and within regions.

A good example of the latter variation were coastal villages in the Bethel region that remained relatively immune to the social convulsions of town life, wage earning opportunities and bootleggers until the late 1970s (Conn, 1982:71-74). Even to the

mid-1970s, these villages demonstrated themselves statistically to be very free of alcohol-related accidents and crimes when compared with the villages near Bethel and with upriver Athabascan villages. Communication links both by phone and airplane were problematic. Church influence was strong. So strong was social control, both institutionalized and non-institutionalized, that recurrent offenders found it expedient to move away. Even in Bethel, villagers from this coastal cluster did not drink to excess or "let off steam."

However, by the end of the 1970s, telephone communication and air transportation had improved. A village high school kept the children at home. Letters to the Assistant District Attorney from the coastal villages reflected the change: complaints of drunken violence and youth in trouble with liquor and drugs predominated.

The 1970s

This decade was marked by the megaprojects which brought oil wealth to Alaska. No longer could the state plead poverty when the plight of village law and order was discussed.

Oil revenues flowed with pipeline oil. However, even earlier than that, the Law Enforcement Assistance Administration promised to reward the state bureaucratic network with federal funds to develop and to supplement criminal law service in rural and in urban Alaska.⁷ This led to the establishment of the Governor's Commission on the Administration of Justice and to the creation of its staff arm, the Criminal Justice Planning Agency.

Chief Justice George Boney took the helm of the Governor's Commission. He wrote and spoke of regional bush justice centers to train rural persons to take up law-related activities. Along with Vic Fischer of the Institute of Social and Economic Research he convened the first of what would become three conferences on bush justice in the decade.

In addition, each major developmental project spawned social and economic impact statements which addressed the way that village life would be affected by the project at hand.

All of these heady developments could not have been more promising for bush justice improvements through coordinated state planning. They provided:

1. A financial *raison d'etre* for collaboration among state justice agencies.
2. Strong leadership from the court system to direct the Governor's Commission toward rural justice problems.
3. The first of three slates of bush justice recommendations, these drawn from non-Native expertise from Alaska and Canada (along with symbolic bush representation) as well as periodic social impact statements from state, federal and private experts on proposed construction projects.
4. A planning agency to plan.

Added to this was important new leverage on the part of the "Native community." While reapportionment decisions had begun to erode bush legislative representation, the emergence of Native corporations had provided the Native minority with new political

clout. Further, Native leadership who had lobbied Congress effectively could transfer that expertise to the halls of the state legislature.

What Did Occur

The first bush justice conference in 1970 acknowledged the importance of village councils to the administration of justice in remote Alaska (Alaska Judicial Council, Bush Justice Conference, 1970:2). It gave equal weight to the need for Native participation at all levels of the administration of justice. (Id:2).

Although few participants in this conference were Native people from rural Alaska, its agenda of recommendations spoke to many practical failings of the state system to address rural needs. It requested trials to be held in rural areas and increased travel by police and courts.

Yet this agenda for reform, as well as two other slates of recommendations which flowed from two other bush justice conferences, ultimately came to naught.

The reason was that would-be reformers, including University scholars and an Alaska Federation of Natives bush justice team, were essentially outsiders to both the bureaucratic decision-making process and to the state political process.

The Law Enforcement Assistance Administration

Early in the decade a young part-time criminal justice planner named Butch Schwartz reported to the Commission that only

10.8 percent of Alaska's LEAA block grants and 11.1 percent of all LEAA funds directly benefited bush areas. Eighty percent of this amount went to construct five jails and to fund police training programs (Schwartz, 1973:4).

To understand this diversion of LEAA funds to urban and central bureaucratic needs, one needed only to examine the composition of the Governor's Commission. On the Commission sat agency heads or designees, the police chiefs of Alaska's largest cities, legislative representatives and a lone rural representative. That latter person was usually a bush magistrate or a person with no connection to any organization engaged in the legal or political process.

Chief Justice Boney died in a boating accident in May, 1972. From that time forward the Commission served as a conduit for funneling federal money into established state bureaucracies and to urban police departments. Smaller police departments and other non-line social service agencies were left to scramble for the leavings after the feast.

There was no centralized process for translating studies, even LEAA-funded studies, into plans of action.⁸ The position of the Criminal Justice Planning Agency and LEAA representatives in the Seattle region was that Indian matters should be dealt with and funded by the Indian desk of LEAA despite the fact that "Indian villages" in Alaska are, with one exception, non-reservation communities subject to state criminal law.

When the Criminal Justice Planning Agency finally did fund a

study to garner "hard data" on the rural situation in 1977, it discovered that the hard data did not exist. It questioned police and local officials for estimates of crime.

John Angell (1979) analyzed and later published (1981) this material from questionnaires designed to discover the state of bush justice in 55 villages selected because of the presence of some components of the Western system (such as a state magistrate). His report described the delays of as much as three days⁹ in service from town-based police and the near absence of knowledge of justice components other than the state troopers (see Appendix 1). It also depicted what may be the highest rate of reported crime in the United States (see Appendix 2).

The Angell report stressed that while small white communities were isolated for purposes of data collection in police statistics, village Alaska was included in a catchall category.

The State Legislative Approach

Bush Alaska was viewed constitutionally as the great unorganized borough subject to governance as a whole by the state legislature, acting as its borough assembly. ANCSA's division of Alaska into cultural sectors for purposes of the Act came to be employed as a de facto way to deal with rural Natives through their non-profit regional corporations. The court system (among others) fought off an attempt to realign its districts to this grid, arguing that it would place judges under too much local pressure.¹⁰

The state legislature listened to state departments, cities

and towns in rural Alaska, but not to the villages. Early in the decade drunken behavior was decriminalized. This change removed from the arrest dockets Native persons who were often rounded up en masse in Alaskan cities and towns (Friedman, 1970). The process of collection of inebriates had already given way to a "waiver" program that made court appearances unnecessary. Cities and towns continued to collect numbers as high as half of the resident Native population under protective custody provisions (Conn and Boedeker, 1983). However, villages were in no position to use this dragnet approach. The net effect for them was to repeal drunk in public and drunk in private ordinances leaving no replacement for villages.

Bush legislators during the first half of the decade focused on issues relative to successful implementation of land claims and on the bellwether issue of high schools for the villages. No consideration was given, either by the state legislators or by the state agencies who deal with youth and family services, to the impact year-round of a youthful presence in small villages where the high schools were constructed.¹¹

Village high schools were introduced in the context of regionally-based school districts. Village parents discovered that power in these districts reposed in the towns which served as regional centers, in the unionized faculty and in the school administration.

Regionalization of services contracted by the state or federal government through the non-profit Native corporations

(whose good work had aided in the passage of the Alaska Native Claims Settlement Act) emerged as the practical working relationship between state agencies and the villages. Regional corporations became friendly conduits for state and federal funds for studies such as the 55 village study and for more recent programs such as the Village Public Safety Officer Program.

Whether villages were entirely satisfied with this arrangement was not as clear. In 1977 village council members went to Washington to soundly rebuke a plan to make non-profit regional corporations into "Indian tribes" for purposes of the federal trust relation. (United States Senate Select Committee, 1978; see also, Conn and Garber, 1981).

In this critique of formalization of the regional community at the federal level, they were joined by urban Native leaders who argued that the Land Claims Act's Native corporations, both village and regional, provided a structural basis for carrying out governmental responsibilities without the creation by Congress of a new tribal relationship (see testimony of Roy Huhndorf, Select Committee 1978:404-407).

Just as villages were reluctant to give over absolutely local governmental authority, so were Native leadership, schooled in the political process of land claims, unwilling to see power dissipated among many tiny villages. That strategy had been one unsuccessfully pursued by the state during the Congressional debate over the Claims Settlement Act (Berry, 1975).

For the state to deal with non-profit corporations or rural

school districts as conduits for state programs the reins of which remained in state hands was different from a unilateral conveyance of state power to regionally-based governmental structures. When this last approach occurred in the decade it demonstrated how jealously guarded was the concept of centralized state authority.

Development of the legal process on the North Slope Borough well illustrates the political and administrative tensions engendered by an official sharing of power with rural Alaska. After its stormy beginning (marked by oil opposition to the formation of a local taxing authority) the North Slope Borough requested and assumed boroughwide authority for police powers in the seven villages and one town in that 4,000 person Inupiat region (McBeath and Morehouse, 1980).

As originally conceived, the North Slope Borough Police were to be a tri-service (police, paramedic, and firemen) effort shepherded into existence by former state trooper and court personnel employed by the NANA Development Corporation as well as by the Department of Public Safety (see Moeller, 1978:16 and NANA Development Corporation, 1976).¹²

Rifts between the consultants, state troopers and North Slope Borough Government lead to the peremptory removal of the single trooper post on the region. Tensions between the Department of Law and the new police operation lead to a period when few cases were prosecuted by the Fairbanks office of the Department of Law. Two white campers were killed by a Native man whose earlier case

had been dismissed for lack of prosecution. News reports spoke of violence in Barrow and anti-white hostility. In fact, what had occurred was the breakdown in collaboration between justice agencies when a borough agency displaced a state agency.

Confronted with cases which were not prosecuted, the North Slope Borough undertook a massive campaign of proactive protective custody apprehensions. Five years would pass before the court system, Public Defender and Department of Law would begin to locate resident professionals in Barrow to give what became a massively overpoliced rural district some balance in its Western legal process.

Conceptualization of the Problem and Its Solution

Attempts over the decade to conceptualize the legal needs of rural villages against the backdrop of social change often lead even sympathetic observers to provide program planners and program implementers with excuses for their failures.

For example, writings during the period described the problem of bush justice as one of a culture clash between Native law ways and state law. It was believed that anthropologists could probe Native law ways and discern from that analysis those aspects of Native law ways which kept the legal system from functioning. The operative assumption was that law did not work in Native villages because the consumers of law were not prepared to appreciate it.¹³

Certainly there was some truth to the proposition that Western law remained a confusing mystery to villagers; yet that

confusion stemmed largely from the signals given off by state law representatives, especially the de facto arrangements given credence by town-based officials who were then transferred to another post leaving no institutional memory in their wake.

Village council process and village council records from the turn of the century reflected de facto working relationships induced by Western law officers as much as they reflected ingrained Eskimo or Athabascan attitudes toward conflict resolution.

State law administrators did not want to hear that the customary law system in the villages was formed by the bush law ways of Western law agents and not of Natives.

Moving from what was perceived to be a cultural adaptation problem of Eskimos and Indians, the justice agencies spoke of solving their clients' problems by offering bilingual explanations of their clients' rights or by educating students to the American law system. This same view that the bush justice problem stemmed from cultural misunderstandings had a second negative effect. There was strong resistance to either institutionalization of the de facto working relationship between formal law and extra-legal process or to suggestions that classic Western law jobs or procedures be adapted to the unusual bush environment.

Even though an urban legal process could not be introduced into any small village due to lack of funds and appropriately credentialed personnel (as well as to lack of agency interest or

commitment), plans which suggested that paraprofessionals or conciliation panels be authenticated as components of the system were uniformly rejected (see Marquez and Serdahely, 1977).

The Magistrate advisory panel of judges and lawyers recommended that the court system disassociate itself from alternatives to dispute adjustment in rural villages even as national figures urged an increase in options to going to court (Second Magistrate Advisory Committee, 1979:22).¹⁴

This paranoia demonstrated not only a lack of appreciation of the rural law process as it evolved historically but a lack of appreciation for American legal history and the persistent adaptive component to American legal machinery.

The Institutional Impetus for Reform

When suggestions for adaptation or reform of traditional law jobs or institutions were made, their central ingredients were often strongly colored by bureaucratic imperatives.

In 1980, the Department of Public Safety requested state funding for Village Public Safety Officers who would replace village police, persons trained periodically but paid through village and job training funds (Department of Public Safety, 1980). The troopers acknowledged that "Rural Alaska has the distinction of having the worst record for public safety of any of the 50 states" (Id:1).

Unlike former proposals for the training and hire of local police, the VPSO program was designed to assure village officers

that pay would be reasonable and reliable. Funds were solicited by the Department of Public Safety to be paid through the non-profit Native regional corporations to the personnel in the villages.

The Department cited the danger of death by fire in rural Alaska, "the greatest loss of life due to fire. . . in the entire Western World" (1980:2). The policing function of VPSO was to be coupled with training and work in fire fighting, search and rescue, and emergency medical treatment.

"This broadened job responsibility should enhance the perception of these Village Public Safety Officers by other village residents. No longer would he only be a policeman and be associated with just arresting people. Now he would be cast in a more favorable role, such as rendering medical assistance, organizing search and rescue efforts, developing fire protection program and similar efforts" (Id).

A similar working relationship between "demi-police" and "real police" had been proposed to the North Slope Borough. The North Slope Borough had opted for a trooper-style police operation of its own.¹⁵

The initial trooper proposal called for villages to decide whether VPSOs carried firearms, (Id:7). Later regulations required that VPSOs meet marksmanship standards of urban police officers. The end result of the VPSO program was to solidify the jurisdictional presence of the Alaska State Troopers in rural Alaska.

The VPSOs were viewed as components of an essentially informal or extra-legal government structure. The troopers, unlike other state agencies, had consistently recognized that village councils and problem boards which mediated disputes served a necessary function in absence of effective enforcement of local ordinances which dealt with minor problems.¹⁶ The same report called for strengthening of the ordinance structure and development of local mechanisms for dispute resolution (Id:9) as well as introduction of a state statute banning importation of alcohol into dry villages.¹⁷ However, the question remained whether the level of formal law enforcement was sufficient to deal with those problems not amenable to an informal or customary solution even where (as Angell had discovered) councils continued into the late 1970s to deal with legal matters in an extra-legal manner.¹⁸

The Department of Public Safety's options were proscribed by its need to maintain a territorial jurisdiction and by its unionized personnel structure. Even as it admitted its own lack of success in bringing law and order to villages, it could develop no other solution than a police aide program for villages, a program which left individual police as unarmed "lone rangers" in small villages.

The Department's proposal for VPSOs acknowledged the continuing failure of law enforcement in the bush as well as trooper jurisdiction "in almost all rural areas. . ." (1980:1).

"From their bush outposts they attempt to respond immediately to emergencies as quickly as possible to felony cases, and rou-

tinely to misdemeanors but their efforts are often hampered by delayed notification, long response distance, the uncertainties of weather and transportation and limited manpower and budget" (Id:1).

The lack of follow-up to previous training efforts, "the high turnover in personnel caused by low salaries and the difficulties that face a village policeman who may have to arrest friends and relatives, have all combined to generally frustrate law enforcement at the village level. As a result, many problems in the villages remain unresolved.

"Not surprisingly, the extent, type and frequency of crime in rural Alaska is not known due to lack of a local reporting mechanism and a state records system that yields data only on a regional, rather than a community basis" (1980:2).

The trooper proposal did not seek to displace Department of Public Safety jurisdiction. As in the case of earlier LEAA programs, (Village Police Training Programs) the Department requested additional troopers to town locations in order that follow-up contacts be maintained with village police on a monthly basis.

Actual police work in state law offenses remained in trooper hands. VPSOs, it was said could accompany troopers and even take the place of a second trooper "thus easing the manpower problem being experienced by Troopers at bush outposts" (Id:6-7).

VPSOs were to meet their law enforcement functions, chiefly

enforcement of village ordinances with a "serviceable, distinctive uniform and parka, handcuffs and baton but without a handgun" (Id:7).

Institutional Perspectives as Planning Perspectives

The court system and the trooper organization have taken two dissimilar positions with respect to meeting the needs of village Alaska. However, similarities in their points of view are worth noting.

The court system began to place lay magistrates in the villages in the late 1960s, but then convinced itself that town-based judges could better receive the business of the court. Although it fought back attempts to redistrict the court to create new rural zones, it did provide a Bethel and a Barrow "service area" along with a superior court judge in each place.

Other rural towns (such as Dillingham) which serve as regional service centers have not been so fortunate. So, also, have 135 villages been left without a judicial officer.

The court system has rejected proposals that its magistrate act as probation or as youth services officers, that it "cover" for the failings of other state agencies even as it decries those failings when they raise difficulties for the court system (Second Magistrate Advisory Committee, 1978).¹⁹

The trooper organization is equally self-centered in its assessment of rural Alaska. However, unlike the court, its home base is in rural Alaska; its concern with effective law enforce-

ment and an increased trooper presence is genuine.

Yet one must wonder whether alternative models to rural law enforcement are overlooked in order to retain a trooper presence in rural Alaska. Do villagers want police who do three jobs instead of one and who are unarmed? Some critics suggest that three jobs in three households are more acceptable.

One must wonder whether other organizational models of policing have been dismissed or ignored because the Alaska State Troopers, like the court system, view the problem from a distinctly ingrained institutional perspective.

Development in The Villages - The Impact Statements Planning For Change

One can argue that the Pipeline Project and its peak construction years from 1974-76 was, in fact, no more than one of several sources of change on the Alaska village scene since the early 1960s.

The pipeline had an acknowledged and direct impact on interior villages and on the villages of the Inuit North Slope. Yet its secondary impact as oil wealth was translated into state subsidies and state appropriation touched every village. Substantial improvement in communication and transportation through satellite telephones and new landing strips eroded distance as an obstacle to material improvement, but also as an obstacle to the importation of alcohol and drugs. The Molly Hootch legislative compromise caused high school construction in more than eighty villages and had as its secondary impact the

transfer of school age villagers from boarding schools and towns to year round residence in villages.

Development of state and federal services made towns which act as regional centers attractive to villagers who sought employment. Village growth near regional centers was an early expression of development in the 1960s. So, also, did significant reduction of infectious disease and infant mortality change village population patterns. A succession of housing projects in the late 1960s and early 1970s brought wage earning opportunities, new living patterns and new demands for cash payment for fuel oil.

ANCSA's influence on villages ranged from employment in village corporations to systematic reordering of village lots and public and private property. Hunting technology improved to such an extent that subsistence activities came to be matters which expended vastly less time; cash needs for such equipment demanded that the hunter find wages to pay for this new snow-go technology.

Development of Native villages has not then been as directly influenced by specific projects or events in Alaska as by the results of federal and state money spent in rural Alaska. While impact statements dealt at length with the impact of a pipeline construction project near one or more Native villages, they were not required when high schools were constructed in eighty or more villages or when telephone service was improved.

It is the secondary and tertiary waves of developmental

influences that change the texture and content of village life.

State agency information regarding villages or their law and order components was close to nonexistent during this peak period of developmental flux.

Alaska Planning and Management prepared an Alaska Community Survey of 271 villages for the state in 1972. The material provided did not include any reference to law and order services (Alaska Planning and Management:1972).

The Interior Department's pipeline impact statement (1972) stressed the overriding impact of the Claims Settlement Act as a catalyst for economic and social change (1972:252). Its authors viewed pipeline impact upon Natives as principally a product of geographical proximity to construction (1972:238).

The state's comments on the pipeline project (Alaska:1971) foresaw little more village impact than "more money being put into the economy of rural villages through wages sent home" (1971:153).

"Little effect is expected on village family structure if the head of the household works on the pipeline project and returns periodically during his employment" (Id.).

Criminal activity would occur, the state predicted, where large numbers of persons concentrated.

"The rest of the criminal justice system will be burdened in proportion to the increase in crime that occurs" (1971:154).

When the state officially examined the impact of TAPS construction on the administration of criminal justice it stressed that with the exception of the troopers and Anchorage and Fairbanks police departments, "most police agencies in the state almost totally lack comprehensive criminal activity statistics" (Alaska:1976, 12).

Given "a lack of an overall comprehensive and systematic process for collecting, maintaining, retrieving and analyzing statistics generated by criminal justice agencies" (Id.), the Department of Law could only speculate on the reasons for a rise from two percent to four percent of statewide reported criminal activity from 1969 to 1973 in the rural Western and Northern Regions (1976:32). It suggested that the rate of crime reported related to increased Alaska State Trooper activity "rather than an unprecedented rise in crime" (Id.).

When the Rural Impact Information Program in Fairbanks attempted to study the impact of TAPS on interior Athabascan communities, it discovered that there were "no figures to determine the extent of [child abuse, rapes, assaults, and suicides] or their incidence compared with that of the pre-pipeline period. Without these figures it is impossible to judge the impact of the pipeline on crime rates" (Rural Impact Information Program, 1977:96).

What was the pipeline construction's impact then on crime in rural communities? The Rural Impact Information Program discovered that data was recorded according to detachment boundaries

which encompass urban and rural places and which do not coincide with boundaries of other state or Native organizations. (See Rural Impact Information Program, 1977:95.)

Equally problematic were the limited numbers of law enforcement personnel stationed in the interior; troopers were stationed in hub communities of Ft. Yukon, Galena, McGrath, Tok and Delta Junction and prepared to respond to major crimes (Id.).

Although the report failed to discover the direct impact of the pipeline on crime, several traits of rural villages did emerge which suggested how problems could emerge.

First, villages lost key personnel to pipeline employment leaving operation of the village to less qualified persons (1977:100). In this vein, better trained village police were siphoned off to take up jobs as pipeline security personnel.

One of the most often repeated anecdotes of the pipeline period was the story of persons who had left their village for pipeline employment including the layover in Fairbanks only to return when it was discovered that their families had been threatened by village drunks. As the rural impact program discerned, population decrease can work serious harm on small villages although impact funds appeared to be directed at places where population and the impact on services would increase.

Real income was often said to fall in villages since jobholders made their purchases elsewhere (1977:101). Charter traffic increased while the size of regularly scheduled craft was

reduced. The result was that "booze bombers" could arrive when large items such as food or construction materials were left at transfer points for long periods (1977:139).

Conclusions from the Pipeline Experience

One of the authors of the 1971 and 1976 state reports on the impact of TAPS on rural crime was candid in his appraisal of these reports in a recent interview. He said that the state had enough concentrated opposition to the pipeline construction project without feeding that opposition more ammunition in the form of predictions of crime in rural villages (Havelock interview, 1983).

Even if the state had desired to measure the impact of this developmental project, it could not. It lacked baseline data. The region involved also lacked fundamental law and order services.

Angell (1979) concluded:

Alaska has two separate and unequal justice systems. The system which exists in the commercial population centers of the state is highly articulated, readily identified, staffed, funded and extensively managed. Its problems are reasonably well documented, although not completely solved. The system in the rural Native communities of the state is invisible. It is invisible because data concerning its operations are infrequently accumulated and it has not been the subject of the kind of scrutiny given the urban system.

Due to the dearth of information about the Bush Justice system, its problems are difficult to identify and comparisons of its efficiency and effectiveness with other justice operations have not been previously done . . ." (Angell, 1979:72).

Recommendations of the Rural Impact Information Programs for

future "impact" situations in rural Alaska deserve republication:

Data on conditions in rural communities should be gathered and published on a regular basis, not just during impact periods. Adequate planning for impact situations is not possible without an understanding of existing conditions. A meaningful analysis of impact is impossible without baseline data with which to make comparisons.

State record-keeping should allow retrieval of information relating specifically to rural areas. Most state departments currently divide the state into regions containing at least one urban area, and regional reports make it impossible to differentiate between statistics for rural and urban areas.

State departments should monitor the demands made upon their services as a result of impact and should evaluate the adequacy of their response to those demands. The monitoring effort should continue throughout the impact period and should not be limited to providing justification for increased budgets.

.

Increase in population should not be the only criterion for determining a community's need for impact assistance. Some communities that do not experience population growth nonetheless experience indirect impacts such as loss of valuable manpower. Assistance to these communities might take the form of training of additional members of the community in vital skills so that the loss of one resident does not endanger the delivery of a community service (Rural Impact Information Program, 1977:iii).

These recommendations suggest that beneath and even more significant than the absence of legal planning for rural Alaska is the lack of accountability of the state governmental system to its rural constituency. There can be no planning because the prerequisites for planning are absent in their entirety. There is no basis for connecting need with change.

What other data might be employed, assuming that criminal justice data is limited to cases reported to the trooper organi-

zation and ultimately packaged into differing geographic boundaries?

Public Health Service data has proven useful to measure levels of alcohol-related violence in separate village settings even when this same violence does not come to the attention of the criminal justice system (Conn, 1982; see also, Kelso, 1977). Boedeker and Conn (1983) were able to evaluate the use of two different police responses to drunken behavior against levels of alcohol-related violence in the home in two Native town settings. In short, one must plan with data that is not first and foremost criminal justice data.

The state government of white, urban Alaskans²⁰ has no picture of the needs in Native village Alaska and appears not to desire one. It dismisses subjective evaluations but in nearly twenty-five years of statehood has not made any significant effort to develop a plan to capture the data it needs or to provide the most basic services.

Yet even with baseline data, the components of the justice system are operated from selfish institutional perspectives which emphasize service only when that objective coincides with institutional self-interest.

In another paper, I wondered aloud whether the state of Alaska desires villages to exist (Conn, 1981). The emphasis on towns and on regional models in non-legal fields as well as legal has tended to strip away even residual power from the villages in matters governmental.

Yet it is to the villages and not to towns that those Alaska Natives who live on the land and who live for the land gravitate and reside. Villages, unlike urban centers, are staging points for the historic life of Alaskan Natives. They are not reservations or museums. As human habitations, they are not frozen in amber.

Alaska Native villages must be given the autonomy and the resources to develop systems of social control which are respectful of both individual and community values. These systems of law should mesh with readily available outside legal resources but not be overwhelmed by them.

Leeway must be granted for experimentation and evaluation. Villages that desire to Westernize their systems must be allowed to do so in a rational manner.

The rural Alaskan environment must be something more than an internal colony of state government.

Alaska government must hire and promote persons who know and love the bush. An authentic dialog between government and the villages must occur.

Until these things happen, there will never be planning. Planning requires knowledge, commitment and authority to act.

Alaska has yet to meet its legal responsibilities to its citizenry in the bush.

NOTES

¹ In the 566,000 square mile state of Alaska, half of the population live in towns and villages usually accessible only by river, sea or air. Within the latter rural population are 55,000 Indians, Eskimos and Aleuts who reside in about 140 villages with populations from 25 to 700 persons and 300 persons on average. Another half dozen Native towns have populations from 1,500 to 3,000 persons.

² So complex is this etiquette in Eskimo villages that drunken behavior may be seen as taking "time out" from the pervasive compliance with sophisticated social cues and fear of sanctions. Characterization of drunken behavior as "being crazy" means that one is not responsible for one's actions (Conn, 1977).

³ Towns are where the superior court, district attorney, public defender, corrections or youth services officers and legal services attorneys work and reside.

⁴ In the 1960's the Native population in the Bethel region showed an annual increase of 29.4 per thousand with a crude birth rate of 45.9, one that Tussing and Arnold noted (1969) was perhaps the highest birth rate in the world. Deaths by tuberculosis have been contained in the 1950's by Public Health service campaigns and infant mortality reduced. The net result was a young population (median age 16.5 in 1969) with increasing pressure upon elders in the villages who exercised traditional

guidance and social control (See Hippler and Conn, 1973).

Population increases were significant in both the town of Bethel and in surrounding villages.

Bethel, the only natural deep fresh water port, established itself as administrative center of the region as well as prime market for fish processing. Its population grew from 651 in 1950 to 1,258 in 1960, and 1,600 in 1966, fed primarily by young Natives who sought access to the limited but new wage opportunities available in that town. Village traffic to Bethel by snowmobile or plane in winter and by boat in summer increased.

Villages surrounding Bethel also grew in population. For example, Akiachuk grew from 179 persons in 1950 to 310 persons in 1966. Kwethluk grew from 242 to 375 persons in 1966. Napakiak grew from 139 to 254 in the same period and Napaskiak from 121 to 215. The neighboring communities of Nunapitchuck and Kasigluk on the Johnson River had, by 1969, combined populations of 626.

Bethel's share of the region's population, estimated by Tussing and Arnold to have changed from 7.9 percent in 1950 to almost 13 percent in 1967(1969:33) occurred because economic development focused there. Along with establishment of State and Federal bureaucracies for the region, came a housing fabrication plant and modern homes, establishment of a regional high school with dormitory facilities and a fishprocessing plant.

While an estimated 70 to 80 percent of the male work force could find seasonal work during the summer as commercial fisher-

men, cannery employees, or as laborers and tradesmen in Bethel's economic boom, no more than 5 percent of working-age Native population were regular wage earners (1969: 38).

Natives were thus marginal to the region's economy and still largely participants in the subsistence economy. Capital received in wage earning was used to purchase new hunting technology (such as snowmachines), technology which substantially reduced the gap between expert hunter and fisherman and non-expert with some consequent secondary influence on social control by old of young.

Transfer payments (especially welfare) went to about a fourth of the Native households (Tussing, Id.).

Thus, while Bethel as town came to have an allure and importance, not uncommon in prompting outmigration from villages by the young, especially villages distant from the town, population increase was also evident in villages surrounding Bethel. Both the towns and villages were changing from villages of yesteryear.

⁵ For the village leaders to make a connection between Bethel and its liquor and increasing deaths of young people who traveled to and from Bethel was entirely appropriate. Later studies of Native mortality (including homicide and suicide) especially those by Krauss (1977) show a replacement of deaths by infectious diseases with high rates of deaths by accidents, suicide and homicide, far in excess of non-Native population during the 1960-1969 period.

Village leaders correctly recognized that violent death, associated with alcohol use, had established itself as a leading cause of mortality with the decrease in infectious diseases.

⁶ Public Law 280, Act of Aug. 8, 1958, Pub.L.No. 85-615, 72 Stat. 545 (codified at 18 U.S.C. Sec. 1162, 28 U.S.C. Sec. 1360).

⁷ Pub.L.No. 90-351, Secs 101-601, 82 Stat. 197 (codified as amended in altered sections of 5,42 U.S.C.).

⁸ Angell (1979) indicates that Alaska criminal justice plans from 1969 to 1977 "devote only passing reference to the rural Native villages of the state" (Angell, 1979:56). The 1978 plan listed nearly all white communities with police whatever their population while ignoring larger Native communities with police (Id:57).

"[C]rime statistics available apparently could not be arranged to reflect the crime rates in Native villages. Therefore, crime rates apparently have not been considered in rural planning" (Id).

⁹ The head of the Department of Public Safety, when confronted with this data, suggested that trooper involvement in the survey had caused village officials to minimize the actual length of time necessary to respond. He suggested that seven days was a more likely figure (Nix interview, 1977).

¹⁰ Redistricting to better service rural Alaska was recommended by the Alaska Judicial Council, Judicial Districting Report With Proposed Recommendations, July 1974. The court rejected the pro-

posal.

11 In a soon-to-be-released study on urban and rural institutionalization within the Alaska juvenile justice system, David Parry (1983) estimates that 37 percent of Alaska's young people live in villages and towns where there are no youth services officers.

12 "The NANA consultants were careful to explain that the new organization was to supplement rather than replace the Alaska State Trooper activity in the Borough. It is clear they did not anticipate any state trooper reduction in personnel in the North Slope" (Angell, 1977:9).

13 The State Supreme Court in Gregory v. State (1976) stated, "We also recognize that the trial court is obligated to be certain that each citizen, when involved in a criminal matter, is aware of the various rights guaranteed him by the Alaska and United States Constitution." To this was footnoted the following:

"The Anglo-American system of justice differs substantially from the traditional Indian, Eskimo and Aleut systems, which pre-dated Western cultures by hundreds of years. The cultural difficulties experienced by many of the Alaska Natives as the contemporary Anglo-American institutions reach out to the bush communities require that the State legal system use extreme care in cases of this nature. Therefore, in those areas where a substantial portion of the populations consists of Native Alaskans, we urge the administrative office of the court system to develop bilingual explanations of basic rights for those who appear in criminal proceedings so that all citizens are clearly aware of their constitutional rights." Gregory at p. 380.

14 "Policy Regarding Alternative Processes for Local

Resolution of Minor Disputes. While the court should encourage villages and appropriate agencies to experiment with alternative processes for out of court resolution of minor disputes, the court should not become actively involved in selecting, implementing, or evaluating alternative processes." Second Magistrate Advisory Committee, 1979:29.

15 When Barrow traded its town police for the trooper-style Borough Police and began a campaign to rid its streets of drunks, the social scientists were prepared to see a direct connection between oil and the resulting "crime wave" (Klausner and Foulks, 1982). In fact, the police activity was very similar in its magnitude to another rural town where no oil development had occurred (Conn and Boedeker, 1983).

16 "During . . . (1972)" wrote project director (and later head of the Department of Public Safety) Bill Nix, "the Village Policemen handled ten felony cases, 418 misdemeanors, and numerous noncriminal complaints. Seven of the felonies resulted in court action and 128 of the misdemeanors resulted in court action. One hundred and fifty-one of the misdemeanors were handled by the Village Policemen without court or Council action." (Department of Public Safety, 1972, p. 1.)

As the project director described it in presenting other statistics for the year which showed court action on 63 cases and council action on 171, "[They] also illustrate a unique relationship of two branches of government within the Criminal Justice system." (W. Nix, 1972:2) The report noted, "the council has

levied \$1,835.00 in fines, and 38 days of jail time. In almost every case, days of work for the village satisfied council sentences."

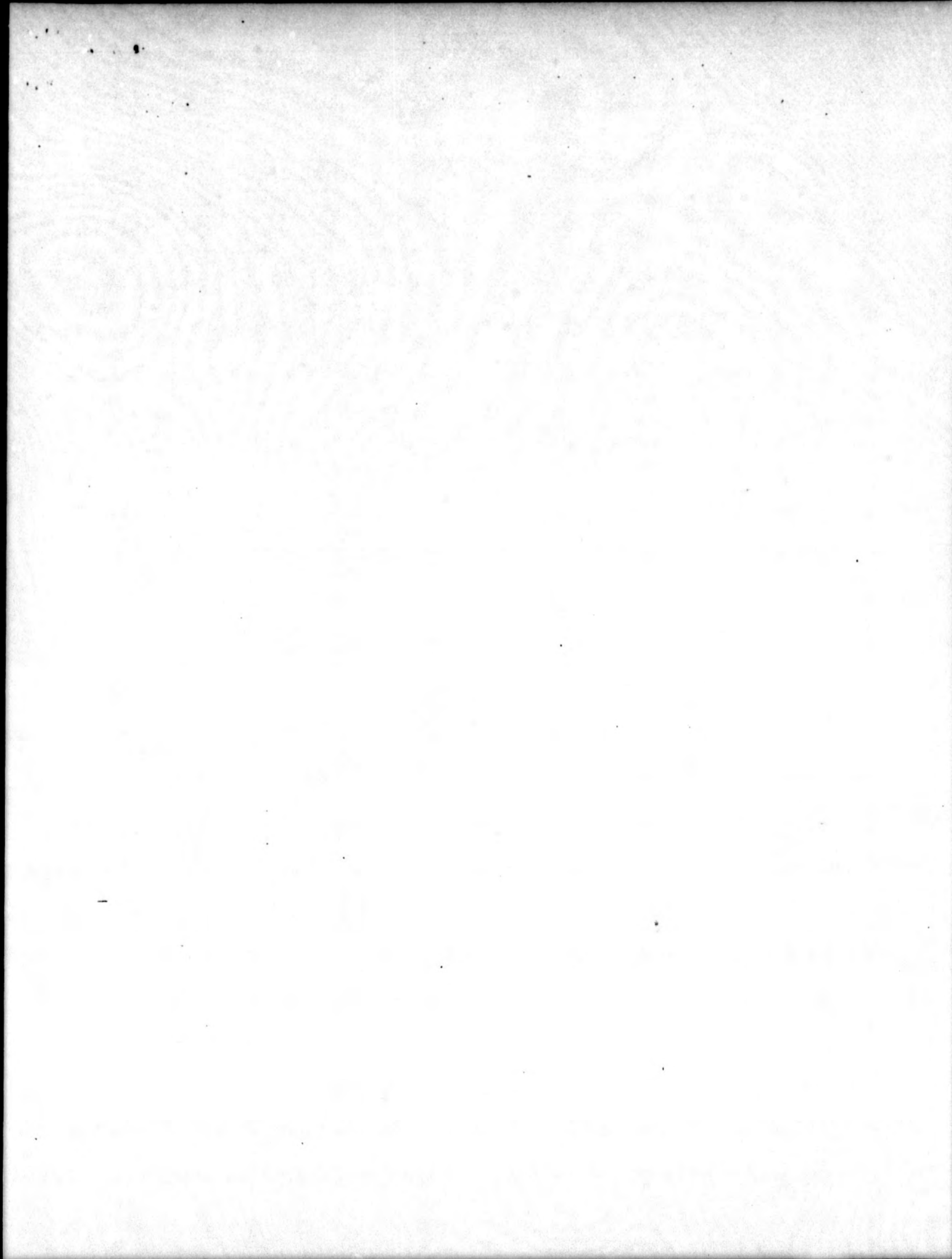
Criminal Justice Planning Agency personnel discouraged training of councilmen with village police, viewing the former as inappropriate recipients of LEAA funds.

17 However, an attorney general's opinion warned against development of "judgment boards" other than courts designated by the state court system (Condon, 1982).

18 The 55 village study revealed that even in a sample skewed towards communities with magistrates, twenty-five percent of the villages surveyed continued to use extra-legal councils or the more modern "problem boards" to solve some of their criminal law disputes.

19 E.g., when rural defendants must be sent to jail for lack of adequate probation-parole services in rural Alaska.

20 Natives make up 23 percent of the state's population yet they hold only 2.8 percent of the state's jobs, according to Alaska Native Brotherhood spokesman Robert Willard. "Native Hire Efforts Promised, Questions," Tundra Times Vol. -20, No. 47 November 23, 1983, p. 4.



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Source: Angell, John E. (1981) Public Safety in the Justice System in Alaskan Native Villages, page 37.

PUBLIC OFFICIALS ASSESSMENTS OF QUALITY OF JUSTICE AND SELECTED PUBLIC SERVICES

	GOOD		OK		NEEDS IMPROV.		INADE- QUATE		NO SERVICE		N.R./ DON'T KNOW	
Village Police	7	13.7	6	11.8	20	39.2	5	9.8	13	25.5		
AST	13	25.5	12	23.5	14	27.5	10	19.6	1	2.0	1	2.0
A F & W	7	13.7	6	11.8	17	33.3	13	25.5	4	7.8	4	7.8
Magistrates	14	27.5	7	13.7	8	15.7	3	5.9	14	27.5	5	9.8
Legal Services	8	15.7	10	19.6	7	13.7	7	13.7	14	27.5	5	9.8
Prosecutor	3	5.9	11	21.6	9	17.6	5	9.8	11	21.6	12	23.5
Defense Services	4	7.8	9	17.6	3	5.9	4	7.8	20	39.2	11	21.6
Probation/Parole	8	15.7	8	15.7	7	13.7	8	15.7	12	23.5	8	15.8
Local Jail	2	3.9	3	5.9	11	21.6	9	17.9	22	43.1	4	7.8
Mental Health	4	7.8	3	5.9	6	11.8	4	7.8	29	56.9	5	9.8
Medical Services	15	29.4	11	21.6	17	33.3	4	7.8	2	3.9	2	3.9
State Jail	6	11.8	13	25.5	2	3.9	2	3.9	16	31.4	12	23.5
Educational Services	22	43.1	9	17.6	18	35.3	2	3.9	0	0	0	0
Fire	0	0	3	5.9	19	37.3	9	17.6	19	37.3	1	2.0
Welfare, Unempl.	10	19.6	16	31.4	13	25.5	6	11.8	2	3.9	4	7.8
Youth Services	0	0	1	2.0	7	13.7	13	25.5	28	54.9	2	4.0

APPENDIX 1

APPENDIX 2

COMPARISON OF ALASKA VILLAGES, ALASKA STATEWIDE, AND UNITED STATES CRIME RATES

CATEGORY OF CRIME	RATES*		
	ALASKA VILLAGES	ALASKA STATEWIDE	UNITED STATES
Homicide	28.4	10.9	8.8
Rape	99.2	50.3	26.4
Robbery	127.6	96.5	195.8
Aggravated Assault	326.0	286.5	228.6
Burglary	936.8	1310.2	1439.4
Vehicle Theft	446.5	3272.6	2921.3
Simple Assault	354.3	783.7	446.1

*Per 100,000 population in 1977.

Source: Angell, John E. (1981) Public Safety and the Justice System in Alaskan Native Villages, page 26.

THE INTERRELATIONSHIP BETWEEN ALASKA STATE LAW AND THE
SOCIAL SYSTEMS OF MODERN ESKIMO VILLAGES IN ALASKA:
HISTORY, PRESENT AND FUTURE CONSIDERATIONS

by

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SOJ # 86003

ABSTRACT

Yupik and Inupiat villages in Alaska (the territory and the state) experienced a process of legal socialization that was strongly influenced by serious constraints in the allocation of resources. These constraints resulted in legal socialization into what was in essence a second legal state system and provided an opportunity for cultural autonomy by Eskimo villages even though this de facto situation did not recognize these groups as sovereign tribes. The actual implantation of a single full-blown legal system in village Alaska in the mid-1970's has resulted in a loss of control and serious efforts by Alaska villages to reinstitute village law ways as tribal legal process.

This paper will examine the historical, present and future interrelationship between Western law and social systems of Eskimo villages in Alaska.

The historical analysis will encompass the period prior to statehood when a variety of military and civilian authorities introduced Western law into Alaska Inupiat and Yupik communities.

The present for these same purposes will encompass two periods, that of the early statehood period, 1959-1970, and that of the oil boom and land claims era, 1971-1982. Clues to the future relationship begin to emerge in 1982 and thereafter.

Eskimo Villages in Alaska - Communities of Resilience and Change

Who are the Eskimos?

Alaska's Native population, 16 percent of the total in 1980 (U.S., Interior, 1984:E-5) includes 7,338 Inupiat, 17,474 Yupik and 5,174 Siberian Eskimos among its indigenous population of 64,103 Indians, Aleut and Eskimos (1984:E-7). With few exceptions these Eskimo populations continue to live on village sites of long archeological duration, set close to land and water resources that remain critical components of village economy. In fact, thirty-five percent of Alaska Natives report that half or more of their food continues to come from subsistence resources (ISER, 1984:9).

Residence in small, medium and large villages occurs among between 95 and 99 percent of Alaska Eskimos (U.S., Interior, 1984:E-7). However, in two western and northern Inupiat regions,

Native towns of 2,000 plus persons have attracted 38 percent (Kotzebue) and 53 percent (Barrow) of the resident Native population. Thus, while net outmigration from villages to urban cities has been more than offset by high birth rates, internal migration within the discrete regions of Alaska continues to be noticeable and important.

Average villages number from 300 to 700 persons, more than half of whom are children.

The Early Period

Inupiat and Yupik villages in Alaska have different historical patterns of development both socially and legally (see Case, 1984:353-60). This paper will focus on certain common factors in the development of relationship between these groupings and agents of Western law.

As stated, both groups were and are heavily dependent upon hunting, fishing and gathering of other wild resources. Villages were, then, with few exceptions, not places to which Alaska Natives were removed to replace subsistence activity with government rations, but rather staging areas for such activities. Villages were the places, then, where semiautonomous family groups came together and rubbed elbows. Historically and in the present day, family groupings determine residence patterns in most villages.

The literature of legal anthropology often serves up Eskimo peoples as primary cultural examples of peoples without law, living in states of primitive anarchy (see Hoebel, 1954 and

Pospisil, 1964). The focus for these scholars and their apparent litmus test has been the existence of extra-familial institutions and figures (e.g., leaders) capable of settling public disputes with secular sanctions and at the same time articulating rules which will guide future relationships within the larger society. In this search for what is effectively supra-political structures, more subtle deinstitutionalized forms of law ways have been overlooked.

If one examines the legal development of peoples such as the Eskimo whose structure of political organization and leadership was often temporal from the perspective of legal socialization, a more valuable and instructive assessment of village law and its association with Western law emerges.

Socialization has been defined as a "developmental process through which persons acquire societal orientations and behavior patterns" (Tapp, 1970 quoted in Friedman, 1977:69).

According to June Tapp and Felice Levine, legal socialization:

delineates that aspect of the socialization process dealing with the expression of legal beliefs and behaviors, the internalization of "rule" norms, the conditions obtaining legal compliance, and the learning of deviant and compliant modes. It focuses on the development of individual standards for making sociolegal judgments and for using the legal network for resolving conflicts, pressing claims, and settling disputes. Covering the "positive" and "negative" sides of learning, specifically for the institution of law and generally for all human rule systems with authoritative validity, legal socialization considers both the processes and products of reasoning about "legal" norms. Whether "law," "norm," or "rule" is used, each conveys some obligation and expectation of compliance; but none

precludes the possibility of disobedience. (1977:85)

It is evident then that even nonjural processes are capable of instilling in members of a cultural group both a normative focus and predispositions regarding the appropriate ways to avoid or engage other persons when conflicts (or potential conflicts) emerge in group living.

The search for law, then, among groups less dependent on institutionalized law draws one down pathways that are often those not taken by political and legal anthropologists. Child rearing, for example, has attributes of legal socialization among its many purposes (Briggs, 1970; Conn and Hippler, 1973a). So does the etiquette of hunting sessions and other rituals normally viewed as nonlegal by Western eyes (Chance, 1966 and Graburn and Strong, 1973).

Eskimo law ways had at its core nonconfrontational, individualized underpinnings. In small groups individuals learned to read subtle cues in personal behavior (see Conn and Hippler, 1973b). Right behavior was taught through observation and through ritualistic lectures in men's houses in both Yupik and Inupiat society. Right behavior was strongly associated with appropriate readings of other known individuals, their patterns of relationships and dealings. Appropriate reactions or non-reactions to breaches of etiquette were selected accordingly. Persons who did not act normally (that is, persons who gave off inappropriate cues) were considered not only deviant, but also crazy and dangerous. Security lay less in the capacity to call

into play a form of formal legal intervention than in a well-developed capacity to read the meaning of another person's behavior in time to avoid danger by nonconfrontation or to react to danger preemptively.

For Eskimo society, then, strangers represented special threats. One did not know their motivations, formed as they were out of unknown alliances and, perhaps, obligations to undertake revenge (Spencer, 1959). Harmony within the group was formed by tensions in equapose, strengths and obligations in relative balance, and above all, knowledge of strengths and weaknesses widely shared among co-resident factions.

Within a reference frame of a typical face-to-face society, gossip, ostracism and avoidance, all mainstays of classic social control, formed effective public remedies for deviance so long as the deviator was a person whose personal alliances and strength were not overpowering. In such a situation, a bully (like a stranger) could cause ripples of unrest that ended only with removal of the offender or withdrawal of the persons offended.

Western Legal Socialization: Early Agents of Change

Intervention by agents of governmental authority varied among Alaska regions.¹ However, patterns of change in the Yukon-Kuskokwim area and on the Northern and Western coasts of Alaska show significant similarities (Oswalt, 1967).

In Inupiat Alaska, villages experienced, by the late 19th century, the beginning of a trait which could be said to be the hallmark of Western law for small settlements, seasonal and

sporadic intervention by agents of American criminal law who sought and discovered law violators served up by non-Natives or by village councils (Murton, 1965). Once discovered, these violators were removed from the community for lengthy periods and, often, forever. The Coast Guard cutters were an early expression of this phenomenon, fixated as they were with control of guns and liquor (Healy, 1889). Territorial marshalls and agents for the suppression of liquor among the Indians were later examples; state troopers were but a final example of the same form of Western law.

Yupik villages experienced this same process although in slower stages, prompted not by whaling but by early gold strikes and the missionary process.

This pattern of authoritative intervention from outside the community was coupled with efforts by teachers and missionaries on the scene to institutionalize law (Jenness, 1962). The result of this effort was the first Eskimo legal institution, the village council.

For these Western law figures, councils appeared to be less law-givers than intermediaries drawn together as a coalition of principal groups within the community. In some Yupik villages at an earlier time, the Russians had recruited traditional leaders as the Tsar's representatives (Case, 1984:359). Whether because of epidemics which shattered older groupings among Yupik, or because of more accurate perceptions that leaders among Eskimos were effectively leaders among equals, the council format was

introduced as a device to reorder Eskimo village societies to the needs of education and missionary programs. Early rules of these institutions were so loaded with matters of practical importance to teachers and missionaries, especially concerns of the school, that some commentators have dismissed village councils as little more than colonial instruments (Milan, 1964).

However, a close perusal of council records of more than fifty years duration suggests that these bodies were sufficiently flexible to allow participants to draw on their own approaches to problem disposition in ways that were not disruptive of earlier forms of social control (Ulgunik, 1946-70).

In other papers, I have described council process in some detail (Conn, 1975; Conn and Hippler, 1973b, 1974b, 1975). However, suffice it to say here that social control over minor problems was given a point of denouement that had previously existed only in the men's house and in smaller group settings. Within the council a group consensus could be formed and those persons with whom other forms of social control had not succeeded could be confronted with their deviance and allowed to confess and be reintegrated into the society.

Eskimo councils worked as transitional institutions for both Western agents of authority and indigenous peoples while other neocolonial Indian courts remained the fixtures of those who imposed them (Conn and Hippler, 1974b). That they were successfully grafted onto the developing legal socialization of Eskimos is best evidenced by their continuing viability even in later

years when overt support for councils dropped away and government policy shifted focus to Western courts and police.

The success of councils seems to have stemmed in part from their coherent integration with political patterns of old and new settlements. Little or no attempt was made by agents of change to stack families and clans into leadership and follower roles. The traditional process of dispute adjustment, one that was distinctly nonadversarial and that allowed for redemption without punishment was another feature of council justice: it allowed for appropriate responses by both deviant and those who commented on deviance as representatives of the community (Conn and Hippler, 1975). The parlance of council justice was often that of Western courts. Ordinances were described and punishments were set. But, as often as not, the process of council justice was not carried through to punishment unless such punishment could be understood as entirely justified by preexistent social relationships (e.g., when elders punished young people or when insiders instructed persons with limited connections to the community). This council procedure with its emphasis on confession and contrition also reflected the less than legal socialization of missionaries who sought contrition from sinners.

Finally, and most importantly, the shadow of another system fell over councils from their inception and backstopped councils in areas where their own restrained approach may not have sufficed.

Agents of education, the Coast Guard, the military and

finally secular territorial law focused their attention on violent behavior, serious offenses by and against non-Natives and, above all, the complex issue of drinking and violence related to drinking (Conn, 1980). These matters were served up to Western law interveners; these serious offenders were removed for punishment in distant courts.

Western law was introduced to Inupiat and Yupik villages with a distinct and limited focus. Drinking and drinking behavior was viewed as the primary source of trouble among indigenous peoples. Other aspects of law - its civil side, for example - were hardly apparent in Eskimo villages until the 1970s. Western law as it arrived in Eskimo villages and when it arrived was about the suppression, use and sale of hootch and little else.

Further, whatever its ritualistic content, Western law served as a vehicle for removal of offenders. Whatever happened to offenders, they were removed for extended periods during which tempers could cool and feuds could be put to rest.

In another paper, I have argued that the impact of prohibitory policy of Western law, the counterpoint to drunken behavior taught Alaska Natives by other non-Natives who drank around them, had a powerful negative influence on development of meaningful controls within the Eskimo groups (Conn, 1980). However, the point most relevant here is that Eskimos were taught by a steady stream of Western law agents that (1) drinking behavior could not be controlled by individual Eskimos or by Eskimo groups if it began and that (2) Western legal institutions were the pri-

mary actors in hootch (and later liquor) suppression.

What Western agents of law taught by word and by deed was confirmed by the inner logic of Eskimo law ways. Eskimos who drank became different persons. As such they were indifferent to social cues and seemingly immune from punishment for inappropriate behavior.

When non-Natives suggested that Eskimos who drank "did not know what they were doing," Natives were prepared to believe it so subtle and complex was their system of law ways (Conn, 1985b).

Councils functioned, then, within a halo of externally imposed Western law that kept hootch manufacture and consumption to a minimum and that removed violent, repeat offenders. As such councils were left with matters involving rational persons who could be counseled and advised to behave in ways which would not result in conflict. Councils often focused on embryonic conflicts, all but invisible to non-residents who had not monitored as closely interpersonal relationships.

With all of this emphasis on council process, one should never forget that most problems among Eskimos, both Yupik and Inupiat, remained outside of the domain of either village councils or Western law. Critical issues of resource sharing and wildlife management remained outside of this sphere as did most matters of intra-familial conflict. What village councils dealt with usually involved matters with the potential of being transformed into Western law violations at some point in their maturation. Whom councils dealt with was equally important. Persons

selected for council justice had failed to pick up cues communicated through other forms of social control. If they were not strangers to the village, they were at least persons who had social ties of less significance to the group.

Village councils emerged as vehicles to reinforce traditional social control and to act on legal matters not deemed suitable for official intervention. Councils bound social control and law together. But as their role became more legal and less bound to social control, this critical balance of legal cultures was lost in Eskimo villages.

Late Territorial and Early State Period

It is often forgotten how significant non-legal changes are to legal process. In the late territorial period and early statehood period changes in population and sources of economic development in towns brought to the fore the limits of a system of combined village and state justice which had worked effectively for many years.

In another paper, I describe critical meetings held between the Association of Village Council presidents and state officials in the early days of statehood (see Conn, 1982).

Village council presidents came together to share notes on ways to control an upsurge in liquor consumption from the emerging regional center of Bethel. They spoke of young men going to Bethel for wage earning jobs and drowning on the way home after initial encounters with Bethel bootleggers. They sought revalidation from federal and state representatives of

their commitment to suppress liquor use within their villages and council authority to act as fining and jailing courts when liquor appeared in their villages.

They were told that council justice was illegal and that Western intervention would be limited to liquor-related occurrences after they happened. As will be seen, they were promised police intervention if they employed rules similar to state statutes. But no other formal authorization of their authority was granted.

More than the legal status of councils had changed. Their source of assistance from Western police agents faded at the precise time when changing birth rates, migration patterns within the region (e.g., strangers within the village) and availability in Bethel of wages and liquor made the friendly isolation of villages a less dependable buffer against too many problems, especially too many problems that were liquor-related (Tussing and Arnold, 1969).

Further, the state of Alaska had a different legal agenda for bush Alaska. The new state had inherited a mandate from Congress that it provide exclusive criminal law jurisdiction (Case, 1984). The new state equated law enforcement with sovereignty. Its policymakers were less prepared than agents of territorial law to share power officially with Native groups. If the state's resources were insufficient to deal with problems in more than 200 geographically isolated villages, it was not prepared to say so. Policymakers assumed that as time progressed, its legal

mechanisms and its legal agents would be sufficient to cover the Alaska environment.

The Yupik village leaders who met in Bethel did not focus on their right to mete out law and order as an end to itself. Instead, they persistently focused upon development of a realistic working relationship between village law and agents of state law. Their attention was riveted upon problems of disintegrative violence and means appropriate to resolve them. They viewed state responsibility in liquor prohibition as central - that was the law's role after all (Conn, 1982). The Alaska and federal representatives focused upon what was authorized under state law and what was not authorized ignoring nearly completely the paucity of resources the state could focus on 57 Southwestern Alaska villages and 29,000 people scattered among them. Ignored also were legal expectations developed in more than a half century of legal occurrences.

The critical division between law as a symbol of authority and law as a means to anticipate and curb violence was to confuse every dialog between Eskimos and Alaskans from that time forward.

Critical Factors in the Oil Boom and Land Claims Era and Their Bearing Upon the Relationship Between Social Structure and Law

No period of time has seen as many external and internal forces at work on Alaska village life than the decade-and-a-half of the present era. What follows is not taken to be a comprehensive assessment. Rather, those matters selected are chosen because (with the wisdom of hindsight) they are clearly forces

which have affected and will affect the relationship between law and the social system of villages for decades to come.

A. The Younger Population Emerges as a Social Force

In the culmination of a trend beginning in the 1950s and 1960s, infant mortality dropped 29 percent between 1970 and 1980 (ISER, 1984:4). The Indian Health Service's campaign to eradicate tuberculosis, influenza and other respiratory diseases also bore fruit. The net result (along with outmigration by some employable younger adults) has been to make of village adults a minority group wedged between larger populations of young and old. Accidents, suicides and homicide replaced infectious diseases as the leading causes of death (Kraus, 1977).

The youthful population in Alaska villages became over the decade of the 1970s a year round population. In what was the first of several political initiatives within the state political system, Alaska Natives pressed for and received high school systems in smaller villages. No longer would young people who desired secondary school education leave the village for a regional town or distant city. Now 92 new high schools appeared in villages, managed by regional school boards based in the towns (Parry, 1983).

B. The Emergence of Town-Based Government and Quasi-Governmental Corporations

Towns which had served as regional centers for limited federal health and social services emerged in the decade as the staging points for state services of every kind, including state

law services. The town-village relationship became more significant than the relationship between distant urban centers and the bush when delivery of services and matters of local government were concerned. On the North Slope, an organized borough government, fueled with tax revenues from oil exploration, displaced the state with a regional government that provided police and health and welfare services unlike any experienced by the seven villages in years previously (McBeath and Morehouse, 1980). The state was induced to provide a superior court judge, district attorney and public defender to the town and region by the upsurge in law enforcement and consequential rise in recorded criminal law violations.

In the nearby Western NANA region with its ten villages, the town of Kotzebue emerged as a regional center without the delineation of an organized borough. In this town, as in Dillingham, Nome and Bethel in other regions, nonprofit corporations emerged as quasigovernmental institutions. These entities, the forerunners of for-profit corporations which had been defined in the land claims process, now drew upon Congressional legislative authority and state political clout generated by land claims to take over authority for management of many federal and state programs.

Educated Natives, especially females, found work in town-based bureaucracies. Thirty-nine percent of rural Natives worked in local or state government by 1980, up 17 percent in a decade (ISER, 1984:9). So also did non-Natives. Their numbers in rural Alaska increased by 64 percent while Natives increased by 18 per-

cent (U.S., Interior, 1984:IV-10). More significantly, the numbers of non-Natives versus Natives in rural Alaska changed from 50,900 to 39,000 in 1970 to 81,000 to 46,000 in 1980 (Id.)

Non-Natives were the primary recipients of state jobs in the bush and even of jobs in Native corporations. As law services and other services increased, so did permanent or at least semi-permanent non-Native presence in both towns and villages. The developed sense that non-Natives were effectively "taking over" coupled with a perception that leading families of Alaska Natives had assumed positions of power in town-based governments and regional corporations, laid the basis for the changes in village political process which will certainly determine the relationship between local law and village life in the next decade.

C. Emergence of Controls Upon Hunting and Fishing

At least as significant as the failure of criminal law agents to intervene when needed was the apparent implantation of legal controls on hunting and fishing. Northern and Western Inupiat who had hunted caribou year round above the Yukon River now discovered that fish and game controls would be imposed upon them in the name of conservation. Laws which had lain unenforced on the books were now enforced to protect migratory waterfowl and sea mammals.

When Alaska Federation of Native-sponsored teams surveyed villages on bush justice problems in the mid-1970s, they discovered more complaints about fish and wildlife enforcement than about treatment of Native crime and criminal law defendants (see

McKenzie, 1976).

It appeared to village people that state and federal law showed more concern for fish and animal life than for village people.

The Process of Legal Change During the Claims Settlement Decade

The decade of the land claims settlement began with what could be described as a commonly shared perception by villagers and policymakers that bush or rural Alaska was ill-served by the state legal process.

Three "bush justice" conferences were held in the decade. Although each one was dominated by a different constituency (the first, high policymakers and academics, the second, villagers and legal services attorneys and the third, line bureaucrats), there was a remarkable consistency in the resolutions which flowed from each session.

First and foremost were expressions of felt neglect. At no time in the state's history had reliable legal services been available to small villages. Villagers complained less about the quality of services delivered than of the failure to provide them (Alaska Judicial Council, 1970).

As I have discussed in other papers, federal law enforcement assistance appropriations and later state appropriations tended to increase the power of highly centralized state bureaucracies. Town-based teams of judges, prosecutors and defense attorneys

(with corrections officers) brought a rapid increase in criminal justice activity into nearly every region (Conn, 1985a).

At the village level, however, every extension of state service brought increased levels of disempowerment and frustration. What had been a notable characteristic of the decades prior to statehood and the first decade thereafter - derivative power lent to small villages to carry out dispute settlement and social control - now evaporated as state service implanted itself in the towns. The state legal apparatus developed "eyes and ears" in the villages by hiring "parapolice" and "parajudges" whose primary function was to hold the scene for town-based professionals and to report law violations by village councils who sought to take the law into their own hands (Conn, 1984). The extra-legal activity of village councils which had been the mainstay of both village and state legal authority in an earlier time now was suppressed unless it could be cast as a form of diversion from state legal authority and controlled in that context.

Although the shared point of view among justice policymakers, Native consumers and academicians was that the system of Western law implanted in rural Alaska did not meet adequately basic needs of citizens within the realms of law enforcement and dispute settlement, constituencies had fundamentally different senses of the root causes of the problem and its appropriate solution.

Policymakers understood the problem as a failure of the Alaska village people to understand Western law and its operative premises. This failure was rooted in "cultural difference," most

especially the education Alaska Natives were presumed to have received in their own law ways, an education which had effectively miseducated them in Western legal terms.

A solution to the problems of law services posited by policymakers and acted upon by academicians was to study traditional law ways and, drawing upon these studies, to reeducate Alaska Natives to Western law. Traditional law would be a basis for comparisons.

Such studies were accomplished (Conn and Hippler, 1973a). However, what they revealed was that traditional law ways had already been substantially influenced by interaction with agents of Western law. In fact, the purported clash between "traditional law ways" and "Western law" was at base a clash between a village legal process mutated and redesigned to fit the demands of earlier agents of Western law during a period of benign neglect of Native villages with a new definition of law services initiated by urban justice bureaucracies who had only recently discovered bush Alaska.

Thus conflicts over bush justice were not cultural conflicts except as they conveyed a conflict between two historical epochs of Alaska legal culture, an epoch of territorial and early statehood and an epoch of modernization fueled by oil wealth and a claims settlement.

The assumption of many town-based officials that village councils could carry out all matters of legal activity, drawing upon consensual authority only, had proven to be erroneous.

There was significant division between young and old over drinking behavior. Younger people had learned to question the legitimacy of village council authority.

In short, councils had seen their historical authority to act stretched beyond its limits and its credibility questioned and undercut both by young people and by outside agents of law who happened to observe it.

If this pattern of events had not caused councils to reject a central role in legal process, another change would have lead to the same result. The Alaska Native Claims Settlement Act favored villages who incorporated as second class cities with title to townships within the village core (Conn and Garber, 1981). At the same time, state revenue sharing and state appropriations favored villages who were transformed juridically into mini-cities. As a result the village council of yesteryear became the city council of the 1970s. Each day's mail plane brought letters from state and federal agencies and a workload which caused councils to look for someone else to handle the cat and dog problems of village conflict which had taken up winter evenings and days in years previously.

Finally, many villagers shared the belief of state officials that the best solution to their problems was total incorporation into and dependence upon the state legal process. Whether this meant placement of a state justice of the peace into the village to take over hearings or simply more frequent visitation of state judges to the village, legal process was not then identified with

something as illusive as tribal "sovereignty." It was simply an activity that the state was charged with accomplishing. It was the state's job to do.

When academicians wrote that justices of the peace in small villages did not handle problems in the way that councils did or that people expected, justice policymakers showed marked disinterest. After all, they concluded, what state judges did was correct and what councils did was illegal and incorrect.

Villagers also were unimpressed. Law was the state's business and it should spend money and energy sufficient to hire someone to do the job.

The earlier epoch, marked as it was by benign neglect of village Alaska, had also allowed Eskimo villages to use village councils as the focal point of institutionalized village social control. Those who decided to tolerate autonomy in matters of law by village councils had not been policymakers of justice agencies, but rather embattled field operatives in rural towns who simply could not take on caseloads of other than the most serious criminal law offenses.

The academicians who studied bush justice in the 1970s tended to embrace a pattern of continuing semi-autonomy in matters of village law (Conn, 1974a, 1975). They suggested that a formalized entity which handled disputes in a "council-like" fashion could probably anticipate and prevent many violent encounters through early intervention (Conn and Hippler, 1974b). They saw as the ideal form of law for modern villages a continuation of

the pragmatic working relationship between community law and town-based state personnel, with some rational division of authority struck between village and town, based on the problems to be addressed and the resources and approach best suited to deal with the problems. What this implied, however, was that each justice bureaucracy reconsider the law jobs and machinery to be offered to bush Alaska, redefining those roles and legal mechanisms to fit the consumer and not anticipating that consumers and their communities would adapt to fit the law jobs and machinery proffered.

The academicians point of view was not accepted by either justice policymakers or by villagers.

Village leaders in the 1970s were not committed to the principles of autonomy or even community control of law problems. What they had experienced in the name of community control was a process which had forced village councils to handle problems they believed should be left to outside authorities. Because of ineffective police intervention, even after repeated requests for assistance, councils had been transformed into courts that threatened fines and other sanctions that one and all knew were unenforceable and even illegal rather than deal with matters suitable to compromise (Conn, 1982).

This point of view which governed village ideas about law and the way it should be accomplished was itself a product of living with an ongoing relationship between village processes of social control and state processes. Without planning or intent, the

state had reconstructed a working relationship after statehood based upon the limited resources available in state hands. Its representatives, usually state troopers or, later, assistant district attorneys, developed and distributed "village rules" which could be imposed on two or three occasions in minor cases without first notifying the trooper. After several tries, the council was to call into play trooper intervention (Conn, Id.)

This mutual responsibility for law in the villages allowed the state to concentrate on more serious matters, presumably allowing village councils to handle the lion's share of problems. Villagers were given the impression in meetings with state and federal officials that this approach, though illegal, would pass muster on the village side. There, it was assumed, that village consent, backstopped by trooper authority, would convince villagers to abide by village law in most, if not all, cases. There was no allusion to a basis for village law, civil or criminal, in tribal authority even when villages could demonstrate that they had been organized as Indian tribes under the Federal Indian Reorganization Act (Case, 1984). Villages which did not seek much outside intervention were viewed as "progressive villages," those which took care of their own problems. The issue of how problems were resolved was not vital; limitations of demands upon town-based officials was considered most significant.

The working relationship between state and village legal process broke down almost as soon as it was crafted into place. The state could never live up to its responsibilities because the numbers and diversity of problems for which intervention was

demanded outran the state's resources. Village councils lost credibility when pressed to demonstrate that they could apply ultimate sanctions, like jail terms and fines, and not merely mediate and prevent trouble, they failed either to carry through or to draw into play a Western legal process which would carry through.

Youth, whose education in Western law, as urban law, began with VISTA volunteers who questioned council authority and continued through social sciences courses, movies and finally satellite TV, did not perceive that the counseling experienced before village councils was "law" as Americans understood it.

If so many other factors had not caused village law to erode, the magnitude of drinking problems, problems associated with town-based bootleggers and town-based wage opportunities, improving transportation and communication, made the business of law too generalized and frequent for a council whose only rock of support was its ability to draw upon village consent.

Village Natives looked for Native and non-Native figures to intervene and deal with their problems as paid state employees. Law became a job like any other and less directly a tribal or civic duty, a job with considerably less financial or social rewards than the negative social connotations ascribed to it and to those who took it up.

The State of Alaska, organized constitutionally, into highly centralized bureaucratic units for the delivery of policing, judging, lawyering and correction ran vertical lines into vil-

lages by means of para-police, para-judges and other aides when it was necessary to implant any representative of their bureaucracy (Conn, 1985b). Agency efforts concentrated on the building up of town-based systems in the regions.

Villages were perceived as places lacking physical and human resources sufficient to establish urban justice systems (see Second Magistrate Advisory Committee, 1978, 1979). Through professional education, and then through bureaucratic alignment and pay, efforts was made to focus the loyalty and identity of state magistrates and village police (through several programmatic permutations) on their parent agencies, the court or department of public safety, rather than upon their village and its government.

With this in mind, it may be easier to see how a village such as X on the North Slope and state justice planners could arrive at very much the same conclusion: that law was state law and no other law and that state law jobs were for state employees to accomplish.

X had carried forth a form of council justice for more than seventy years as its records could attest when a local personage was nominated to be magistrate in the early 1970s. From the first day of his employment, the council rejected further complaints made to it. Even when complainants returned to state that each did not want to file a written complaint or to put anyone in jail or have him fined, the council refused to handle matters arguing that the state employee should handle the job.

When few cases appeared on the magistrate's roster for

several years, the court system removed the post from X and dismissed the magistrate, retrieving its typewriter, law books and government forms.

Only after this occurred did the council, grudgingly return to the business of hearing disputes, requesting repeatedly that the magistrate post be returned (Conn, 1975).

The same village turned over its policy authority to a boroughwide police authority. For years it had complained about inadequate police service from a single trooper in Barrow. When the borough did not, at first, respond with its promised police service, juvenile vandalism and break-ins caused resident teachers to panic. The council merely referred teachers to the Borough Assembly.

Policing by the borough did finally come to the seven villages on the North Slope including X. Because this transformation of a Western law service was the only one accomplished by rural Natives, what occurred is instructive. It revealed something about the influence of deprivation. The North Slope Borough introduced areawide policing in a bush region without parallel in Alaska. Trooper-type officers, virtually all non-Native from out of state, were placed in two-man contingents in each village. A ten man plus unit began to patrol the 2,500 person town of Barrow (Conn and Boedeker, 1983).

Spiraling crime statistics and quantum leaps in protective custody apprehensions for drunken behavior would cause scholars to conclude later than social upheaval had come with oil reve-

nues (Klausner and Foulks, 1982). In fact, what occurred would occur in any small town or community assuming levels of policing take a quantum leap. The clearance rates for crimes reported (when tabulated) were such that nearly every reported crime resulted in an arrest (Moeller, 1979).

The North Slope villages moved from a period of historical underpolicing to overpolicing. Even then, village councils did not intervene to mediate or divert any of these arrests nor did they request to do so.

Policing in villages in the rest of the state was increased through training of village police and then through indirect hiring by the Department of Public Safety of Village Public Safety Officers. These VPSOs were paid through state appropriations to nonprofit Native corporations based in the towns, but were trained and directed by state troopers (Sellin, 1981).

Here, as with state magistrates and North Slope Borough police, control and guidance of law officers was said to be in the hands of town-based police and not in community hands. As village police were transformed into persons not merely trained but paid by the state, their role was narrowed from that of a typical American policeman in a small community who carries arms and makes arrests to that of unarmed agent of the trooper, prepared to hold the scene until troopers arrived to investigate and make arrests.

Throughout this transformation of bush justice in the 1970s, councils found not only that they were relieved of responsibility

for doing "law work," but that they were rarely consulted on matters of law in their communities. Troopers intervened when they decided to intervene. Legal figures came and went. Consultation with councils became ritualistic and pro forma if it occurred.

Despite repeated requests by councils that they be informed when and on what conditions that released defendants would be returned to their home villages, officials in towns usually ignored councils when such decisions on release were made or when such information was communicated. Similarly, when it was suggested that councils be involved in sentencing, a corrections officer polled a council and had each member vote on preselected terms of years to which a defendant might be sentenced rather than obtaining from the council a more subjective assessment of the defendant's place within the village.

Councils were employed only when defense attorneys or prosecutors wanted to stress village opinion in the context of an individual case.

At the same time, justice professionals systematically warned their underlings (professional and paraprofessional) in towns and villages that village ordinances were illegal in content or in preparation, that village police departments were untrained and that village law systems were constitutionally suspect.

The Local Option Law and its Rationale

In 1980 rural legislators lobbied into state law legislation which allowed villages to vote on several forms of local alcohol regulation, among them an option which provided that a village

could prohibit the importation (though not the private and personal use) of alcohol (Lonner and Duff, 1983).

Villages viewed this local option as an exercise in local control, not unlike the authority each had enjoyed when in territorial days, each could outlaw the manufacture and possession of hootch under federal law.

What villagers discovered, however, was that this local option, a formalized grant of state authority, was narrow and circumscribed. Importers of liquor had to be caught with valid search warrants. Liquor slipped into town as before and did not make villages dry or give the village control over liquor use.

The reaction to this law is important for viewing the future of law in rural Alaska through the prism of legal socialization or living with the law as it has been experienced in nearly one hundred years of village associations with agents of Western law.

Frustration with the state system's inability to generate local controls on drinking and drinking behavior have caused villages to meet to discuss non-legal solutions and non-state solutions (Justice Center, 1985).

Native Alaska villages, including Inuit and Yupik villages, now appreciate the limits of service that can be provided by state agencies which are town-based. Not only drinking behavior, but also youth problems and drugs concern these villagers.

Juvenile Matters

In territorial days, U.S. Commissioners (local justices of the peace) sentenced youthful offenders to out-of-state institutions and took the position that juveniles should be housed at federal expense (Moeller, 1942:1-5) in Murton, 1968). There were no juvenile reformatories in the territory and no territorial funds employed to deal with Native delinquents. As a result, extra-legal council proceedings about juvenile behavior were supported by officials. However, after statehood came the transfer of juvenile matters to state superior courts where, it was thought, more "helping" resources existed. Unfortunately, superior courts were not located in rural places other than Nome until the mid-1970s when Kotzebue, Bethel and Barrow were added. The net result was that juvenile process reached the towns long after this authority had been lost to village councils and a youth problem had begun. At best, youth services officers reach very serious matters in small villages, leaving all other juvenile problems neglected. The Western system has ignored, then, the demographic bulge of youth in Eskimo and other Native villages while denying authority to councils or even state magistrates to act in anything other than emergencies (see Parry, 1983).

Eskimo juveniles and their elders have discovered, then, that the law affecting them has diminished in impact with the transfer from village justice to state authority.

The pervasive absence of village control over community concerns has begun to impress rural villagers. This concern relates

to many matters, not those of law only but also to schools now organized and guided by town-based regional education attendance areas and to other youth needs including recreation. Concern with state regulation of local subsistence activities after futile attempts to influence developmental decisions have also given rise to an increased demand for local authority.

Tribal Governments - The Next Step?

I think it critical to understand that Alaska Native villages did not consistently press for tribal legal autonomy as the relationships between villages and state law matured. If anything, they seemed acquiescent in the replacement of their own instruments for ordering by less effective but official state agencies.

Villages pressed for more control and autonomy through the local option law and more recently through tribal government because the villages discovered that the state was not true to its own ideology or legal commitment to serve all citizens. The court stopped placing magistrates into villages leaving about 130 with no local judicial officer to handle small criminal, civil or juvenile matters. The state police were satisfied in the end to place parapolice in small villages to "hold the scene." In pressing matters such as juvenile behavior, the state was prepared to place no youth services officers in small villages where nearly 30 percent of Alaska youth reside.

Out of frustration, then, villages have reconsidered their roles as arbiters of legal matters. This discontent has had several allies.

Since 1980 the numbers of young Native inmates in state jails has doubled from 16 to 34 percent (Alaska, Division of Corrections, 1984). The reasons are many. However, some inmates see ineffective village law as a primary reason for their own fate. These inmates now press for reforms of bush justice.

The deadlines in the claims settlement bill have set in motion initiatives aimed at protecting Native lands. One initiative has been to revitalize moribund tribal governments. Thus tribal sovereignty has become the rallying point for those who desire improved and village-based government services, those hostile to the regions and the state and those desirous of protecting land and resources from outside regulation, from taxation and from legal claims against Native corporations whose investments have soured, corporations that own the land in rural Alaska.

In 1982 village leaders from more than 70 communities formed the United Tribes of Alaska. Their touchstone was "tribal sovereignty," a concept long recognized as a core attribute of Indian government in American federal Indian law. It signifies a residue of governmental powers which any tribal government can exercise unless or until those powers are explicitly removed by Congress (Strickland, 1982). Sovereignty exists in the context of the political relationship between the federal government and tribes, those semi-dependent domestic nations, recognized by the American constitution and by caselaw as a "third order of government."

The scope of tribal governmental authority in Alaska is murky at this juncture, given the Alaska Native Claims Settlement Act's extinguishment of aboriginal land and hunting rights and that Act's refusal to set up reservations of land upon which tribes could govern (see Mintz, 1985). Yet Native leaders have taken Congress and its word at face value. They view ANCSA as a land settlement only and point to Pueblos in the American Southwest as examples of tribal communities which exist on other than lands held in trust by the federal government.

When interviewed recently, UTA chairman, Shelton Katchatag described how sovereignty could be used as a governmental tool by Alaska people. Said Katchatag:

Under sovereignty, governments can regulate subsistence economies, they can provide what are now called social services (including education, health, police and court services), they can tax, set the policies and directions for any enterprise (commercial or otherwise) the people might choose to get into. The overall goal of a government is to provide for the security and physical safety of their members, guide an economic system whereby members can not only have all the comforts of life, liberty and the pursuit of happiness, but also feel that their work as a group is productive and not just for themselves but for their community. (Katchatag, 1985:C-1)

However, when asked for examples of current tribal governmental activity, Katchatag gave a single example of a youth court organized under the joint authority of the village of Sitka and the U.S. Congress by the terms of the Indian Child Welfare Act of 1978 (which designates villages named in ANCSA as tribes for purposes of the Act).

Tribal governments are measured in American court cases, not

only by doctrinal assessments of sovereignty, but also by their acts as tribal governments. Put another way, tribes have learned that unless they use tribal authority, they may not be accorded legal status as tribes even if they are theoretically entitled to it.

Alaska villages, with few exceptions, have allowed their tribal governmental roles to atrophy as city governments, regional governments and the state have taken over nearly every role of tribal government which Katchatag described.

The issue, then, for tribes in Alaska is twofold. First, should each press for autonomous standing, a third order of government, dependent neither on state or federal authority? If this posture is sought as "sovereignty" in the American legal framework, it implies freestanding governmental authority that is not dependent upon delegations of power from either the state or federal government. Second, whether power is delegated or not, over what realms of governmental activity should tribes assert jurisdiction?

Inupiat and Yupik villages in Alaska may not be at liberty to establish freestanding third orders of government. First, because given a federal court system that is aggressively hostile to expansive interpretations of tribal rights, the final decision on tribal sovereignty in Alaska may well be left to a political result within the halls of Congress, a result necessarily satisfactory to the state as well as the tribes. Second, tribes will necessarily move forward with little or no expectation that eco-

conomic windfalls will favor their development. In fact, the momentum behind many tribal movements is distinctly non-developmental, concerned as it seems with preservation of subsistence-based economies.

Village governments in Alaska appear, however, to be overly modest when examples of their past governmental experience are requested. In fact, by acting as traditional governments and as city governments, local communities have very complex and active records as governments within their domains.

Alaska Eskimos have adapted their own legal culture to that of Western law as they were taught it through a working relationship that developed in the 19th century. This is not to say that Eskimo legal culture is dead; it has evolved to meet the requirements of Western law.

As tribal governments are considered, it will be important to recognize this evolution and not to substitute federal Indian law doctrine for a pragmatic assessment of this phenomenon. Specifically, the separate sovereign status of Alaska Native tribes under federal Indian law should not require that, once established, Alaska Native tribes "revive custom" or retreat in time to a pre-contact system of law ways. In the case of Alaska Natives, institutionalization of their legal systems did not occur until contact with Western law. Certainly no one would advocate the deinstitutionalization of Eskimo law as a necessary attribute of modern tribal sovereignty. Instead, the process of pragmatic development of that legal system should continue as

before with an eye toward Eskimo legal expectations, Eskimo problems and appropriate legal machinery in small, rural villages.

Given the persistent influence of other legal authorities on villages' legal process over time, it is unlikely that villagers will seek more than a further refinement of their historical working relationship in delivery of governmental services. Although this may not please ideologues on either the state or village's side, it will comport with law and government as villagers have been educated to it. The end result will be based upon a pragmatic assessment of problems and the best means to divide authority for their resolution. It will imply a formal division of power long resisted by state and federal authorities. However, it is not likely to involve a substantial reintroduction of customary approaches to dispute adjustment unless both village and state leaders are sold on their practical viability in what both perceive as the modern world.

In short, both villages and the state have addressed matters of legal responsibility from a perspective which places high values on assimilation and pragmatism and not upon legal pluralism as more than a means to an end.

There is little on the horizon to suggest that this process of legal socialization will cause either tribes or the state to change course.

Tapp and Levine write of legal levels of legal socialization, drawing analogies from work by students of childhood education.

They suggest that persons should move from levels in which blind obedience to authority or compliance out of peer pressure give way to critical assessments of law and probing inquiries into the rational bases for laws. The latter dimension amounts to "legal literacy" (Tapp and Levine, 1974).

If one examines the interplay of Western law and village law among Eskimos there is little within the inner logic of the two to assist in developing legal literacy. Eskimo council justice lost its own logical basis as institutionalized social control as it became a tool of Western legal process. Western legal process appeared powerful but increasingly arbitrary and unreliable as its agents revealed their ignorance of their own system's earlier limited commitments to rural villagers.

What has driven a new generation of Eskimos to a posture of demanding legal control over their own destiny is not the rationality of what they have experienced but its irrationality.

Perhaps this is the only way that legal literacy - a desire to engage and manipulate the legal process - is achieved.

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PERSPECTIVE ON SMALL VILLAGE JUSTICE SYSTEMS

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Introduction

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What justifies a study of conflict adjustment in small villages? Many lawyers and judges do not see any relevance in a detailed consideration of dispute adjustment in native villages as an underpinning of standards and goals formulation. Their view is that there is one legal process and that if adjustment is to occur, it is the consumers who will have to adjust if they are to benefit from it.

The response to this argument is severalfold:

First, Alaska has tolerated and even endorsed several systems of justice in the past and even today to compensate for the absence of professional services to the bush communities. Thus, it can be argued that the extant legal processes in bush Alaska historically supported by agents of formal law although at variance with the system's own rules, laws and procedures, can undergo change only when the message of these systems is understood. Consumers who have been misled deserve to be acquainted with the reasons for change.

Second, in the future the legal process will need to remain active in small villages as well as in larger villages and cities. To be active and yet whole, it must integrate village norms, roles and procedures because they convey a particular perspective on law.

Third, legal professionals should recognize that many common law formulations of criminal conduct are based on entirely subjective formulations of likely conduct among reasonable western men. These subjective formulations are

the end product of evaluation of western writers and commentators on western man, his motivations and his attitudinal sets.

As Alaska addresses populations that have only recently meshed with Euro-American societies, it should consider if it intends to continue the development of criminal law and procedure. Or does it intend merely to apply dogmatically criminal law definitions whether or not they are appropriate to measure conduct of peoples in Alaska society? Alaska village law gives us clues to new formulations of criminal conduct and responsibility that should be borne in mind by professionals who deal with "cases from the village." It also gives those who draft standards realistic and factual measures to relate system changes to the real Alaska justice system as it is operating in smaller communities of our state.

PERSPECTIVE ON SMALL VILLAGE JUSTICE SYSTEMS

An evaluation of justice systems in six of eight villages by the staff member of the Judicial Council suggests that there are some shared expectations and attitudes regarding the use of law as a device for social control or conflict resolution. It also suggests that nearly every village has a different response to social problems and that individual villages show markedly different rates of success in handling problems which are either criminal or have in their character the potential of criminal conduct as villagers perceive it.

1. The Overview

Village justice systems are directed toward daily crime prevention of minor offenses rather than sporadic reaction to crime and serious punishment for serious offenses. They view the state system as reactive only and not very efficient, thorough, or communicative in that role.

Crime prevention in the village figures into definition of criminal conduct by ordinance or by councils, judges, police and others when they deal with alleged misconduct or consider it. Local legal figures respond earlier or desire to respond earlier than the state legal process often allows to less overtly serious acts of misconduct. The purpose of responses is not primarily or unduly punitive if measured in fines or jail sentences. Nearly every village applies levels of sanction to misconduct which range from counseling and warnings about future conduct to expulsion of strangers. The

over-riding goal seems to be an attempt to define and maintain an actual consensus among community people regarding conduct. Criticism of the posture of the village legal process by some villagers indirectly supports this majority perspective because that criticism invariably refers to unequal application of the law. (see below). The police and council suggest increased codification of misconduct but defer finally to the public desire for codification.

Unequal application might characterize the process of village law. This suggests, upon further analysis, how village law differs from the outside legal process.

Village law calls necessarily for a personalized response to social deviance. This response is unequal in form by definition. While the majority of villagers can be dealt with informally through gossip ostracism and social cue until they violate a serious norm, a minority must receive early official attention when they violate any norm on the perimeter of the village code. The law as it is officially applied is applied unequally because that official response must take the form of publically renewing a social contract between the offender and the village, a contract others endorse without this formality.

By enlarging the scope of codified law, as well as the maximum punishment for violations of codified law, councils and police lay the basis for earlier contact with likely serious law violators. However, when the community believes that a matter does not yet require codification and makes this known

to police, councils, magistrates or others, these officials will usually let the matter rest. If, as frequently occurs, a model code arrives with certain provisions that are not appropriate subjects for official concern, these provisions will be adopted but then officially ignored.

In sum, the codified law defines normatively the outer limits of official response to acts by those who cannot be reached through other than official response. All official response is carefully considered. The resulting application is unequal by any objective measurement but the objective is an equal consensus regarding the real substance of law within the village.

The implications of challenging the village justice system by asserting learned individual rights are serious for the challenger and for the village. One does not merely challenge the particular norm and its application to his conduct. Instead, he challenges the shape of the consensus which governs village conduct as well as the authority of the agents of law in the village to shape that consensus by selectively applying norms to likely dissidents.

Thus, when a resident of Selawik in his late twenties returned by service in the military and challenged the application of the curfew upon him and his friend who had not served, the curfew ceased that night to be law for young adults.

x The modern enforcement of norms governing alcohol possession and use are in precisely the same vulnerable category. With each application of the law against possession of alcohol upon persons who are not significantly tied to the

village; the council or magistrate tests the validity of that norm and its continuing relevance to the village.

Each case is potentially an arena for law reform.

An admission of guilt is a renewal of the consensus, a consensus with no basis in state law. Concurrence in the judgment of the council or magistrate as symbolized by payment of a fine, receipt of a warning or other sanction is a further test of the norm as a fixture of that consensus.

Therefore, it is not surprising that villagers encourage cooperation by the offenders and do not test the ultimate power granted to them by the ordinances, passed by the village, in every case. First violations are never dealt with severely. Their disposition is in fact a further step in a process of negotiation leading to conformance with policies which are supported by the ordinances.

2. Outside Assistance

Villages which depend upon outside assistance substantially as a means to shore up crime prevention (e.g. for an outside magistrate or trooper to sit with the council and warn an offender) generally lose some of their capacity to maintain a local posture of concern regarding criminal acts when the outsider does not appear. Although villages desire local magistrates, their presence is not particularly significant in laying the basis for community consensus regarding antisocial acts and their consequences. Their presence does symbolize state support for village law. Whether or not that law conforms to state statute, magistrates apply it. More

significant are trained village police who work in close liason with councils. They are most useful when they are directed by council intent and lend and receive authority from the council.

Problems -- Concern with juvenile behavior and liquor is widespread. So also is concern for creating activities which provide recreation sufficient to absorb juvenile energies. Where no great dichotomy has been created between juveniles and adults in pursuance of fishing and hunting activities, there seems to be less need to create many purely recreative activities directed to the needs of the "youth culture." Also, parents and older relatives retain authority borne out of acknowledged expertise in land, sea and river activities sufficient to counsel young persons when requested by police, councilmen and others. Where juveniles and young adults have little interest or talent in subsistence activities or have some developed symbolic disdain for village economic activities while away at school, there is less implicit rapport between older persons and younger and consequently less overt rapport for the directives of village institutions, be they governmental, eclesiastic or traditional in origin.

3. Standards and Goals

Within the framework of standards and goals for the courts, the function of village mechanisms for social control and dispute settlement falls broadly within the area of screening and traditional diversion. These activities are carried out by police, juvenile intake officers, prosecutors, or formal diversion agencies in the urban arena with the formal or informal assistance of problem-oriented agencies. In the village

there is no necessary parallel alignment of social service aides, police and courts. Each is an agent of a separate, non-cooperative, outside agency. Also there is little expectation that agencies which act from outside of the village will return offenders with a plan that befits village intent or village authority patterns.

Each outside agency acts "through" the council or other leadership structure to a greater or lesser extent in selecting, placing or training its representative in the village or in "communicating with" the village. However, the ultimate ability of the council to coordinate and structure the work of these agents depends on its perception of their authority over them, knowledge of their job skills and discretion, the council's active relationship to their "master" bureaucracy and even the council's desire to share its own work or, again, involve itself in work of other people who receive stipends to do it.

In the villages studied, there are few examples of outside professional support or imposed programs or roles which were well attuned to the village pattern of justice. The best examples of personal support are expressions of approval of particular troopers or prosecutors for particular village activities directed toward dispute settlement. The problems with this support are that it is easily withdrawn by the next law officer or prosecutor and recently that it may not be supportive of liquor or juvenile case disposition. This form of support has its antithesis in letters or state-

ments by attorneys, justice system personnel, or others that merely tell the village that it is out of step with state law and may be subject to sanction if it continues.

Second examples of support that seem favorable are the conciliation board that works as an accessory to the magistrate and constable in Emmonak and trained constables who are personally able to attune their training to the norms which define village conduct. The magistrate appears to be more of a symbolic guarantee to villagers that they will continue to have control over most criminal offenses than an institution that replaces the several-layered level of inquiry into misconduct that councils and police employ in smaller villages.

Problem Offenses in the Villages and Rules of Conduct

In the villages studied the ideal norm to be enforced was that there should be no liquor in the village and no drinking there by strangers or villagers. Each village council or village magistrate had learned through formal or informal communication that this norm was not supported by state law. Several villages acted formally through ordinance, police, council or magisterial activity to address the transportation of liquor into the village, the presence of any quantity of liquor in a private dwelling or persons who gave any indication of conduct, by "smell" or otherwise, of having imbibed within or outside the village.

Summary of Approaches

[to be added]

Those persons who evoked the strongest overt concern in this category by village authorities were persons who were not permanent residents, either native or non-native. These persons were warned in the first instance with greater or lesser success. In several instances they were expelled when warnings did not work. The special focus on non-residents or persons who were natives married into resident native families seemed to have several motivations. First, strangers were more generally outside of non-legal controls imposed through families, cooperative activities, etc.; they were perceived as having no long-term stake in continued, harmonious residence in the village. Second, the local authorities had more trepidation about the strangers' attitudes and respect for village authority--they were sober or intoxicated and had concrete reasons for this trepidation.

In some villages drinking or even overt distribution of liquor by residents was not dealt with at all, while strangers were warned. In other villages more strenuous sanctions were placed on long-term residents who drank or possessed liquor and who held positions of authority than upon anyone else.

One reason that residents were treated differently is that the authority of police and councilmen was counterbalanced by other more critical social relationships between the untrained police or the councilmen as co-residents with the offender. When council officers or police who drank were officially ignored, the structure of law in the village was wounded in terms of its central role of defining a consensus

among villagers regarding social conduct, especially its role in achieving a consensus that included young people. Where officers or their children were sanctioned with equal or greater force, the result was that the council reinforced its capacity to define social norms even when those norms were known by co-villagers to be different from categories of criminal offense defined by state law and agents of state law.

The second level of liquor offenses which emerged related to conduct while liquor was present in the village. Where liquor was tolerated in private dwellings, the focus of law enforcement was upon 1) persons who distributed liquor to others who committed or were likely to commit antisocial acts ranging from public display to discharging firearms; and 2) persons who created disturbances in their homes or outside, causing panic or injury among non-drinkers.

The concern with introduction of liquor into villages was not merely that the transporter will go home and get drunk. Villagers observed that persons would share the liquor. Those who took the liquor would drink for the effect. When the original owner of the bottle or his guest became intoxicated, the bottle would be taken by younger persons or others outside of the original circle. The villages desired what might be labeled as "dram shop" statutes which focused blame on those who initiated drinking by others, legal blame for all of their conduct. For while the recipient might not foresee his later conduct, those who initiate drinking could.

The norm is not generally enforced by magistrates because it does not usually appear in model ordinances. Magistrates exercise less discretion than do councils or police. The norm appears to underlie the concern for keeping liquor out completely because villages are not usually capable of employing young, untrained police who are themselves susceptible to and peers of drinkers to stop the social or commercial flow of liquor once it has begun.

The second target of social control where importation and private possession was tolerated is the drunk. Villagers separate completely the drunk personality from the sober person. They do not blame the drunk person for his acts when he is again sober. The drunk person is perceived as dangerous to himself first and to others as a second matter. Thus, jailing of a drunk until he is sober is supported as a way to insure his safety first and the safety of others as a second matter.

A restatement of law or intoxication from the village perspective might be this: a drunk person is a person who is out of control. He is crazy. One drinks with him or one flees from his^m to the safety of another house in the village. If one has authority, he should intervene and lock him up, whether or not the drinker is an adult or juvenile.

The support for this formulation of intoxication in state statutes, criminal process or in the common law is scant, unless new interpretations are argued to revise common law interpretations of criminal law.

For example, many violent offenses in villages occur after both victim and offender have been drinking. If the offender received his liquor from the victim, could one argue that his intoxication was not voluntary but perhaps his only line of defense short of retreat? Suppose this fact pattern included the following: That A (the victim) arrived already intoxicated in B's house. That A and B had certain unresolved problems between them known to both that could bubble to the surface when A was intoxicated. That B could only leave his own house or drink with A. What should B do in mid-Winter in a village where police protection is scant? Should B be held responsible for his ultimate acts?

Less theoretical is the position of state law which has repealed intoxication as a criminal offense. From the perspective of a villager any intoxicated person in a dwelling where firearms are also present might be viewed as a person with the probable intent and the present capacity to commit grave bodily harm. Could he look to state law for support if he acted on this expectation?

At no place does village justice and state (common law) diverge in suggested definitions of conduct or in suggested response by that legal process than in dealing with the voluntarily intoxicated co-resident who comes to one's house to offer his booze.

Stated below are summaries of the differences.

The village: Some natives in the village are persons who are in danger of committing criminal offenses to

others or to themselves when they drink. We know who they are. The desired response is for police to lock them up at once.

The state: The intoxicated person under state law is suitable for transferral to alcoholic rehabilitation centers which do not exist in the village for "treatment."

The village: The person who responds to some intoxicated persons in his community, responds to persons who are out of control. He must flee, join in or react with sufficient force to protect himself against imminent bodily harm.

The state: The person who responds to an intoxicated person under state law deals simply with a person in need of medical treatment. If the drunk refuses assistance, he must be left alone.

Villages focus their attention upon lesser levels of intoxication or mere possession of liquor because they determine that dealing with situations which have progressed is dangerous and more difficult for an untrained police officer who must live with the intoxicated person and his friends and who lacks rehabilitation facilities. Past experience tells them that certain persons are known to become violent when they drink. Those persons have entered the "zone of perpetration" of more serious conduct (in the jargon of the common law) when they drink. Other persons will merely cause material inconvenience to family and friends that smaller villages are not capable of absorbing

through social agencies.

Consideration of Council Process in light of Alcohol Abuse

The hearings generated by accounts of persons drinking or possessing alcohol take on further importance when evaluated against the definitions of alcoholic conduct suggested above.

When dealing with a sober person, the council can remind him of the village ordinance, remind him of penalties which are imposed, and point to dangers which result from his past alcohol-induced conduct. While the disposition of offenses before the Council or council-like bodies serves a broader purpose in establishing and reaffirming community norm, its primary purpose is to establish the parameters of the relationship between the village authority and the individual.

The individual has been warned. He has had an opportunity to see what rule and what penalty will be imposed when he acts in a particular way. It may also be made clear to him that liquor will not justify certain bad acts because the motivations for these acts are known to exist even when he is sober. Thus, the council tells the offender that although liquor symbolizes non-responsibility, that it will not be used by him as a screen behind which to hurt certain persons.

The basis for this kind of pointed warning is shared knowledge of villagers regarding past acts of the offender, information that only villagers possess. By acknowledging that shared knowledge, the offender frees the council and

police to take action upon him when he breaks the law that they might not otherwise take, because both the offender and community might feel that the action was unreasonable, motivated by personal animus, or vengeful.

Because relationships are not impersonal in the village the village authorities construct a basis for reaction upon the personal relationship by making parts of it into a "social contract" that is acknowledged by both sides. That contract is often recorded in council minutes or a village constable notebook or indirectly in magistrate reporting forms. (The structure of the latter documents is defined outside of the village and so is less flexible.)

-- While personal contracts between offenders or prospective offenders made in consideration of continued unbothered residence in the village would be entirely outside of the realm of possibility in larger villages or impersonal urban environments, they are less difficult to make and to enforce in smaller villages. They supplement and enhance the deterrent effect of fines and jail terms which are meted out. In fact, in smaller villages they reaffirm the authority of village leaders who at this point in time can look to less overt support for their work from outside legal representatives.

The number of persons who must be dealt with directly by the village authority is never very large. This mere handful of persons has given off signals to other people that they are sometimes candidates for concern. The reaction of these persons to liquor is known; it can be anticipated in a non-punative process which tells the person that others know and are concerned.

Juvenile Offenses

Young juveniles are usually treated as adults with respect to drinking. For other matters, such as speeding on sno gos, sniffing glue, breaking windows with BBs, or simply "lacking respect," attempts are made to deal with the problem through a series of informal steps. Where this process has broken down, there are several reasons for it. There is a substantial lack of support by the judicial system, the police and corrections for reinforcement of informal approaches or other intermediate steps short of removing juveniles to a formal process or to institutions which do not prepare them to return to village life. Facilities and programs for juvenile correction are absent in all villages, large and small. Suggestions that group homes be established in smaller villages are met with chagrin. Villages seem to know the limits their present capacity for reaction with respect to juveniles and to fear for them.

In villages which demonstrate general social cohesion, counseling and warnings by the police, council and parents seem to be adequate measures. Even in these villages second levels of treatment have emerged. In Manokotak juveniles have been told to work in response to glue sniffing. This work is supervised by police. In Selawik, the juveniles have been fined and jailed.

Some juveniles expect to be treated in the same manner as adults. Others now believe that no juvenile justice system is functioning in villages and have a limited under-

standing of the problems they would confront if they were removed to superior or family court in a large village, town or city.

In general, however, no village studied that demonstrated a capacity to deal with liquor related problems among adults had a "juvenile problem." The capacity of the village to deal effectively with adult problems signaled a consensus which allowed it to deal with minor offenses committed by any age group. Juveniles tended to be impressed with the overall hypocrisy of the system or the overall commitment of the system of law that they observed at work in their village to a greater extent than the detail of response to juveniles by police, magistrates or others.

Relevance for the Justice System as a Whole

Village justice is built upon one-to-one relationships and directed toward a consensus regarding appropriate conduct. Modern techniques of surveillance and information retrieval pale in comparison with the day-to-day awareness of villagers. The village legal process can apply this information and draw from it signals regarding potentially explosive conduct. When it fails to predict these occurrences or intercept them, it fails because of the uncertain mandate to act provided village authorities by the village or by the outside legal process.



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Stephen Conn
8/22/74

REPORT TO THE CHIEF JUSTICE

Introduction

In the preparation of this report I have read all commentary arising from the magistrate advisory committee, read the office files of the magistrate supervisor, and interviewed persons inside and outside of the court system.

In previous unpublished plans I have focused on problems.¹ In this report I attempt to define a working rural justice system. Instead of beginning with discussions of formulas for circuit riding by superior court judges and professionals, I approach this problem from the other end of the system. I seek to define a viable justice system from the bottom of the system. I believe that many issues raised by you and others, such as frequency of superior court trials in the bush, failure to communicate the results of trials back to communities, and "native control of village justice," can be worked out if the justice system is peopled with adequate staff in residence or near residence at its bottom. These individuals will solicit hearings and professional assistance and information for disputes which cannot be resolved in the locale without this professional assistance.

Despite the theoretical appendage of rights to private citizens, our system is directed by advocates who manipulate the system and demand a response from it on behalf of these private citizens. The role of the court, as I see it, is to lay a structural basis in rural Alaska to enable comparable manipulation of the system from the bush where professional advocates do not exist.

¹Please also read the comparative analysis of ABA and bush process which deals with problems of bush process.

These reforms will allow disputes to be resolved in legal forums close to the local community if they can be but at the same time will shore up the individual rights of citizens so that they can petition to the best forum available with knowledgeable representation or advice wherever that forum is situated.

If attorneys resided in every Alaskan community, they would probably demand adequate forums, adequate interpretation of the process, and would provide adequate review of the system. The court is placed in the difficult position because it must compensate for an absence of these demands for due process by attorneys who have not seen fit to bring necessary cases even when they reside or work in the bush.

The direction of case law offered to attorneys and citizens is ideal. Yet it is attorneys who have not chosen to take advantage of Alvarado. It is the physical absence of attorneys who make inactive broad use of right to attorneys offered to citizens by the court.

I feel that attorneys who are wedded to our system have the ultimate responsibility for its failure in the bush. If no attorney desires to practice before a magistrate, the issue appears to be how can the magistrate court function as a judicial process which is dependent upon advocacy? I suggest solutions in this study.

The major innovation of this study, if adopted, would be to formalize ties between professional justice, the local judicial function, and the new and old process of dispute settlement in rural Alaska. Dispute settlement as a function of the justice system may wither away as it has in other states to be born anew in early diversion projects in urban areas. However, the demand for dispute

settlement, called "counseling" in magistrate reports or "council justice" in village Alaska, seems to be continuing. It is as much a product of logistics as a product of the social realities of small village residence.

The thrust of this report for the court system is threefold:

1. Recognition of and dependence upon dispute settlement for minor criminal and civil offenses and minor juvenile cases.
2. Support and training for community adjudication of community criminal offenses defined in ordinances along with limited support of sentencing on misdemeanor cases and arbitration of lesser civil cases.
3. Retention of authority for larger civil cases and adjudication of state criminal offenses by the professional judiciary and a small number of specially designated magistrates.

If the rural justice system peopled by trained paralegals is active, it will define its own limits and demand of professional attorneys and judges that they come into the bush to try cases when those limits of paraprofessionalism are reached. No one will have to recommend increased circuit riding in the abstract; it will be demanded as a natural extension of the process of local justice.

The problem of bush justice has been the broad division between bush justice and professional justice. We have at present separate systems bridged only tentatively by the service area concept which has pulled professional justice into several larger villages and towns.

I am prepared to discuss the ideas presented here at your convenience.

Stephen Conn

Magistrates

The court should eliminate magistrates in communities where district judges can sit on a weekly basis, where caseload is minimal, and where particular linguistic or social factors do not require that a judge from the particular rural area reside and hold court in the region. Where magistrates are allowed to continue, they should undergo a new process of selection, reselection, and training outlined below. Their jurisdiction should be directed to encompass administratively defined clusters of villages.

Overview

In some areas of the state, particularly in Southeast and in communities in South Central, the magistrate system is an anachronism. In other areas, only the local magistrate can preserve community well-being by providing rapid disposition of minor criminal law violations. The suggestions I am outlining here will meet with some political opposition from small white communities and from the magistrate association. However, the court can meet that opposition today. If it does not implement reforms of the magistrate system soon, the system will be saddled with freewheeling city courts such as that of Anchorage. These courts will make a fiction of the unified justice system.

Judicial Service Areas - Overview

The court should press for elimination of all judicial district boundaries. I do not subscribe to the Judicial Council reforms because:

1. Retention elections at the level suggested have little meaning in any modification of the Missouri Plan. The electorate is not likely to be informed regarding the work of a judge, except by fringe groups and by the

official reports of the Judicial Council which may be products of inter-agency compromise.

2. The districts suggested will generate political pressure for residing judges that will not necessarily relate to need for service.

Although I do not subscribe to the Hicks proposition, I fully endorse his intent. I think that development of micro-service areas which relate to the needs of smaller villages for magistrates will allow the court to prune away the magisterial function and displace incompetent magistrates under a plan which will appear to be something other than an attack on magistrates. It will also allow for meaningful local participation in selection and retention of local judges.

How to Proceed

First, define clusters of communities which could be served expeditiously by either a district judge who visits one town in the cluster on a weekly basis to hear all cases or by a resident magistrate in one of the towns. A cluster should encompass a population base of 1500. Four or five villages should be included. Intravillage travel by snowmobile or by charter should be possible.

Exceptions to the cluster concept will immediately be raised. Some of these will be valid--for example, those communities which are very isolated and which generate small caseloads. Other situations will require compromise--for example, Tok which takes up federal drug arrestees; if this pattern is to continue, perhaps the federal government should subsidize that operation. It does not follow that Athabaskan communities should be served by a Tok magistrate. The Haines magistrates face similar pressures from outside. The Kodiak magistrate has a substantial caseload and is perhaps suitably professional to be elevated to the district court level.

The result of the cluster definition on magistrates should be twofold.

First, some magistrate positions in Southeast and in South Central should be eliminated. Their work should be taken up by traveling district judges.

Second, even where magistrates, both Native and non-Native, are presently sitting within a cluster of villages, the definition of a cluster will be an appropriate time to select anew the magistrate who can best serve that cluster. The nature of that process of selection is described below.

As the cluster is defined, the court is in an excellent position to call upon sister agencies to provide adequate services to each cluster. I think that each cluster should have at least one trained constable, one lay advocate, and one correctional aide. Conciliation or mediation boards or council members in each village should assist in the resolution of minor disputes referred to them by the magistrate or constable or privately initiated. Compromises effectuated should be communicated to either the magistrate of the cluster or to the district judge who serves the cluster.

Magistrate Review and Selection

A traveling committee of the magistrate supervisor, a Native selected by the regional corporation or other private citizen, and a judge familiar with the region should meet with villagers in each cluster and obtain nominees for the magistrate position. These nominees should be interviewed. The final selection should be made by the committee. The magistrate should serve for a probationary period of one year. During that period he would be subject to administrative removal, based on his record of activity and acceptance of training. At the end of that period he would stand for retention in an election held within that cluster. Elections should be held every two years thereafter. Elections should be held after a public hearing on the extant magistrate, magistrate candidates, and magistrate activity generally.

.....During the same period of reorganization, the State Public Defender
Agency and Alaska Legal Services should solicit applications for a lay advocate
to work on behalf of local agencies within every cluster where the agencies
cannot provide regular weekly service by professionals. This determination
will require candor; it should be demanded. The courts will promise to go to
bat for appropriations sufficient to fund these positions through the state
and federal budgetary processes of these agencies.

The Department of Public Safety will be approached to fund at least one
constable position in each cluster or to provide regular service unless there
is a trooper who either resides in the cluster or who can efficiently serve the
cluster. Again, candor or its absence will determine the success of this
reform.

Finally, the Division of Corrections will be approached to select a lay
correctional aide in each cluster.

The National Center for Dispute Settlement can work in conjunction with
the court to develop mediation boards in each village. Members of the Emmonak
board can assist in training. After a trial period, funding for this project
should be solicited in part from monies from non-profit regional corporations.
This funding, payment of members on a per meeting basis, will be minimal but
symbolic.

Functions of the Magistrates

Clerical and recording functions of the magistrates should be removed to
clerks' offices situated in larger villages and towns.² As a rule, magistrates
should only hear and dispose of cases resulting from violations of village
ordinances. These ordinances should have been modified in severity of their

²Flavin suggested that civil actions should be filed in Dillingham.

penalties. They should provide for issuance of citations in lieu of arrests. If magistrates retain jurisdiction over any misdemeanors, only specially qualified magistrates should conduct trials on state misdemeanors. Magistrates should be allowed to sentence offenders in cases which they cannot try in the misdemeanor category. Their training will reflect a role which will interlock with the activity of the Division of Corrections and the work of mediation boards in each village.

Civil Actions

Because defenses in equity cannot be raised in magistrate court and issues of fraud and warranty are complex to present by laymen, civil jurisdiction is usually limited to seemingly clear-cut actions on personal or commercial debts. It could be argued that this limited jurisdiction offers a convenient instrument for enforcement. However, the way civil authority is used seems questionable.

Several magistrates have informed me that they informally discussed complaints with potential defendants, pointed out the consequences of a suit, and obtained payment for potential plaintiffs. Magistrates therefore became collection agents.

Alaska Legal Services by board rule does not represent clients in disputes of under \$500 in value. It cannot represent both sides.

I suggest that magistrates could be recipients of civil actions to be transmitted to superior court or to the unified trial court and could in the alternative arbitrate small claims. Arbitration would allow magistrates to look behind contractual claims to defenses in equity and detailed matters of fraud without regard to rules of evidence. Lay advocates could assist in preparation of problems for arbitration.

Mediation of many small civil disputes could occur in villages. Cases which could not be mediated could be sent to the magistrate-arbitrator or to district court. Finally, lay advocates could investigate and assist in transmission of more complex cases against non-villagers to superior court.

Whether or not magistrates retain their civil jurisdiction, the lay advocate can point to legal issues and prepare them for superior court when change of venue has been requested from urban to rural courts or provide investigation for civil attorneys who file in district or in superior court.

In this vein, I suggest that no reform of small claims court rules will compensate for the lay consumer's inability to prepare his case and present it. I have suggested to Charles Bird that either paralegals or attorneys be provided consumer participants or the small claims court be scrapped in favor of a non-litigious forum such as arbitration forum which will receive cases originally where parties concur or where cases are directed to the arbitrator from district or superior court.

Juvenile Jurisdiction

The primary candidate for legal systems in every village is the juvenile. All magistrates should be equipped as masters of superior courts to engage in informal disposition of juvenile offenses. They are in a particularly good position to decide whether or not the juvenile should be removed and a petition filed in superior court. Their position should be enhanced by a lay correctional aide and mediation board who can deepen informal disposition and counseling with parents and others in the village. As stated elsewhere, community rehabilitation is not a real alternative in most villages today.

Sentence Review and Review of Magistrate Professional Conduct

The Role of Lay Advocates. The immense amount of professional frustration with the magistrate system is related directly to concern with their capacity to wield substantial power in a community as an agent of the legal system -- without a process of peer review which every other judicial officer confronts. Part of this review is by fellow judges, both formal and informal. Part is the continuing interaction of judges with attorneys. While other judicial officers operate within a system of checks and balances maintained by fellow professionals, the magistrate does not.

I have suggested that limitations be placed on the breadth of sentences which magistrates may mete out by directing their authority through model ordinances. Without legislative amendment in the case of misdemeanors, this reform will occur by persuasion and by reform of adversaries (see below). I do not believe that any external monitoring of magistrates will compensate for the on-site observation which attorneys provide in larger areas. For this reason, I believe that endorsement of lay advocacy as a check on the magistrate system is the most astute step the court can take.

Lay advocates (and constables who act as prosecutors) learn and teach the magistrate how the adversarial process works as no education course can. Each participant benefits professionally.

For this reason, I recommend that lay advocates be employed to offer independent advice to defendants (as the uniform standards on criminal justice suggest by implication) and further, that they provide representation in magistrate courts when attorneys are unavailable. In civil cases their primary

function will be to direct parties either to superior court and outside attorneys or, if appropriate, to magistrate-arbitrators or mediation boards. In criminal matters, as stated, the constable should act as lay prosecutor to balance out court proceedings where the lay advocate appears. Lay advocates may suggest mediation as an alternative to criminal complaints.

I do not think that the bar will challenge this arrangement if ongoing supervision is provided by attorneys to lay advocates. However, if the plan is challenged, I think that the case law favors this alternative to representation by an attorney when one is not reasonably accessible to an attorney.

Communication of Sentences. A regularized procedure should be developed to communicate back to villages through councils or, ideally, through a mediation panel which brings offender and victim together, the detail and court disposition outside of the village. The reform often suggested has not been implemented.

Who Can Sentence? The court must end the jailing and fining of individuals by village councils if its own integrity is to be preserved. This approach to dispute settlement should not be endorsed by prosecutors or troopers. Even if median panels are not organized immediately, councils can be informed regarding their potential roles as compromise seekers under Alaska statute.

Attorneys and Indigency. Magistrates should know how much legal representation costs if private attorneys appear and should be able to weigh this against the apparent resources of the defendant. The magistrates should be provided with a formula for determining indigency either by rule or in their training.

Training

No large conferences of magistrates should be held in large cities. No magistrates should be trained with justices of the peace in Alabama. Magistrates of superior competence should be elevated to district judgeship or, as

special masters, do district judge work and be trained with other judges both inside and outside of Alaska. As an alternative in near urban areas, young attorneys should be recruited to serve as magistrates as a subsidy to their development of private practice in these regions and to encourage the disbursement of attorneys generally.

Rural magistrates should be trained in small groups in small villages by a training team that does not merely reflect interagency politics but by the magistrate supervisor and selected attorneys who have regularly handled bush cases for the defense, for the prosecution, or for legal services. These attorneys should be encouraged to obtain leaves of absence from their regular work to carry out this work.

The training should relate to the real work done by magistrates and not the theory of that work. An indication of that work should come from broader disbursement and evaluation of the data report forms now disbursed to selected villages. Examples of present magistrate hearings should be videotaped for study. Trooper records, letters and communications to troopers, village constable notebooks, and council records should be studied.

The Handbook

The handbook has been substantively improved from drafts which I criticized previously. However, in its transformation from a handbook into a well written Manhattan telephone directory, it has lost much of its clout as a cookbook of law or as a training vehicle.

The problem with covering everything you always wanted to know about being a judge is that it frightens lay persons off and makes them very defensive about their expertise as it relates to their literacy. The evolution of the library in villages has a similar effect.

Alaska does not have to reinvent the wheel to provide useful training for magistrates. Indian judges have been trained in the Southwest. The parajudge projects provide some decent material. More important than this are materials developed for the Reginald Heber Smith Fellows and VISTA programs for young law graduates, bar review materials of PLI, and more recently, the uniform bar review courses. Finally, there is excellent material developed for paralegals by the Paralegal Institute and a hornbook on paralegalism written by the country's foremost authority on paralegalism, Professor William Statsky of Antioch Law School.

I suggest that the magistrate supervisor, Hicks and Burke (for example), pull together this training material and develop:

1. Short workbooks on magistrate functions which relate to clearly stated hypothetical cases, the forms employed, and finally to relevant portions of the handbook and the law library.

The best examples of these learning materials in Alaska so far are the short and clear outlines developed by the troopers.

2. The handbook should be divided into shorter binders.
3. Videotapes by representative district court judges, public defenders, prosecutors, and correctional officers addressed to their interlocking roles with magistrates and using explicit examples should be produced.
4. Consultation by several national figures with the teachers. In private correspondence, William Statsky has offered himself for one or two three-day weekends after January, 1975. The emphasis here will be on teaching methods, material, and content.
5. Irrelevant discussion of the history of the court, contempt powers, etc. should be deleted from the handbook and treated briefly in outlines.

Integrating Teaching with other Professionals in the Cluster

Despite some voiced misgivings by Snowden, who suggested that confusion of roles could occur, I believe that magistrates, lay advocates, constables, lay correctional specialists, and members of mediation boards should be instructed in a joint session which encompasses several clusters but occurs in one village. These individuals should learn jointly how they can work together and be tracked through hypothetical cases. Then they can be pulled apart to work in seminars with their peers. This team teaching can take place along with adult legal education beamed through movies, lectures, or village TV in the host village. This education should explain the work of each figure and the limits of his power.

The physical style of these conferences should be very basic--Minto style. Arrangements should be made with local schools to feed individuals. Housing should be in armories in sleeping bags. There should be no per diem, just actual expenses.

Supervision

Not only should the magistrate supervisor be on the road constantly but supervision should also flow from those professionals nearest the scene. Each paralegal should have a personal and professional point of reference. Where professionals are so poorly disbursed that they cannot assume this responsibility, the court must put all of its weight behind persuasion to better disburse correctional officers, legal service attorneys, prosecutors, etc. Radio communication should be available between these key professionals and paralegals.

The round-table conference calls and professional-paraprofessional shop talks between PHS doctors and village health aides offer a model for these communication patterns. The magistrate supervisor should survey extant communication services and be very, very aware of the improved telecommunication system which is now developing. He should use it to offer program material for village education on TV, for example, and schedule his own visits around this program material.

The magistrate supervisor must be aware not only of the lines of communication between magistrates and judges but also the ties between other paralegals and their professionals. His view should reflect a realization that the court process functions effectively only in conjunction with an adequate response by and adequate cooperation with sister agencies.

The Job of the Magistrate Supervisor

It is very clear that the job of the magistrate supervisor is an immense undertaking. There is a large administrative task which only a business school graduate could effectively undertake. I suggest that there are few business school graduates who also are attuned to the rigorous schedule of bush travel and education which is the substantive end of this job.

Perhaps a solution would be to attract as interns business school graduate students to work in liaison with Snowden and the supervisor.

Other Tasks as Yet Unmet

Several other important jobs must be accomplished even if the magistrate system is improved in isolation of the other reforms I have suggested for other agencies.

1. Although the files revealed that different judges gave different forms to their magistrates and that an absence of uniformity of forms was perceived as harmful, I found no indication that anyone was concerned with taking on this problem. A small task force of law clerks could accomplish it. It is an absolute prerequisite to the training I have suggested.

2. One of the stated tasks of the magistrate supervisor was to keep abreast of cases flowing from the court as well as new statutes and to summarize these developments for magistrates. Sending magistrates Supreme Court opinions is an absolute waste of time. Material sent to the bush must be digested. The Clearinghouse Review is an obvious model for this newsletter. While in-house newspapers which eulogize the departed and tell what a good job the court is doing may give an organization a spirit de corps and personality, they are just more paper to stacked on more paper in magistrate offices. The newsletter I am suggesting should be filed and indexed. Even the Alaska Bar Bulletin would be better than anything now going to magistrates. Not the law reviews, please. Several recent cases on the state disorderly conduct statute and on written replies to civil actions,³ for example, deserve clear explanations. In the near future, magistrates will continue to be the legal advisors in bush communities.

3. The magistrates should know who to contact and where responsibilities lie with respect to the modular facilities. They should know how to obtain reimbursement for guard duty.

4. Magistrates who speak Yupik should receive cassettes which offer to them the best developed Yupik explanations of legal matters developed by the interpreter program.

³Even the new form developed in response to the Aguchak case was considered incomprehensible by Native students in my class.

5. As discussed by the magistrate advisory committee, the issue of magistrate removal should be defined procedurally. My own predilection is toward very limited security for magistrates during a probationary period. However, this should be coupled with a hearing process that does involve magistrates as well as court personnel on a hearing board and afford administrative due process to magistrates who have tenure and approval by voters.

6. Ordinance revision in villages is absolutely necessary if magistrates are to focus upon ordinance violations and effectively create a two-tier system of law enforcement, by means of local ordinance and state law.

Ordinances

Local ordinances continue to have an important function for villagers. If correctly drafted, they can form a less complex level of normative law and of legal penalty. For example, local ordinances could result in citations rather than in jail or fines. Also, they could include civil remedies such as restitution. Finally, drunk statutes are still relevant to villages without alcoholism programs.

The Rural and Local Affairs Agency and the Cooperative Extension Service have done a poor job of creating ordinances which are useful to villages and which interrelate to other justice needs. One reason for this is that they look to legal assistance from the Department of Law. This assistance has been scant.

I suggest that a grant be solicited for development of ordinances to be written and distributed in regional seminars or by means of the attorneys for the regional corporations. These ordinances should reflect justice system

interests. The model statutes should not merely incorporate the maximum sentence but should develop statutes of limited criminality which point to the three to five offenses which are common to villages and easy to handle there:

1. disorderly and drunk
2. simple battery
3. simple property damage
4. joy riding in boats and snowmobiles
5. misuse of property

The preamble to the statutes could discuss the range of available correctional alternatives in the village cluster. Each village ordinance can be listed along side the state statute which would indicate the more serious offense that might be charged.

Given these ordinances, one can consider focusing magisterial activity as the trier of cases upon local ordinance cases from each village in his cluster as well as upon the arbitration of small claims where either the plaintiff or defendant resides in his "cluster of villages." Magistrates should continue to hold preliminary hearings in state felonies and to arraign persons and issue arrest and search warrants.

Mediation Panel

Within the new ordinances, provision should be made for the appointment of a mediation panel. This panel could be composed of council members or of persons independently appointed. They could provide a symbolic incentive payment for these mediators in the amount of ten dollars per session per

mediator. All compromises effected by mediators should be presented to the nearest magistrate for review.

The mediators should:

1. Assist the magistrate, intake officer, or superior court judge in informal disposition of juvenile cases which arise in the mediators' village.
2. Take small claims assigned by the magistrate.
3. Effectuate compromises of misdemeanors under Alaska statute.
4. Take various non-criminal pre-arrest matters involving inter-personal conflict (e.g., Emmonak's cases).

Corrections

Each cluster of villages should have a lay correctional aide. The aide will perform the following tasks:

1. Advise magistrates and mediators and judges, when the offender is removed, of facts bearing upon disposition of offenders. Particularly relevant are past history of the offender and opportunities for correction within the village, the detailed conditions under which a suspended sentence or suspended imposition of sentence might be imposed.
2. Advise correctional personnel of useful training or treatment for the offender which might occur outside of the village in order that the incarcerated offender might be returned to the village to a position of responsibility or usefulness. In discussions with personnel at Palmer, this role was emphasized.
3. Aid community mediators and magistrates who serve as special masters in informal disposition of juvenile offenders.

4. Supervise programs in recreation or other programs suitable to drain off tension among juveniles who reside in the villages.

If Native police officers are the principal need for rural villages, then lay correctional personnel will provide the entire system with a professional rapprochement to the complex problems of village Alaska.

Benefit to the courts: Not only can lay professionals provide independent information to judges who are confronted with bargained pleas, they can assure the court that the detail of sophisticated sentencing is followed. They can also report the impact of sentences on offenders and villagers.

Benefit to corrections: The sophisticated correctional programs will probably continue to be urban based. Their success in dealing with village offenders relates in part to their knowledge about the offender's life in the village. Information such as this is available but not in court records or in probation reports. A lay correctional aide could discover the detail of the offender's problem and develop clear lines of communication with the villagers in order to determine what the offender should be trained to do back in his village and what restraints on his conduct and his relationships will need to follow him back to his village. I believe that the employees of the Palmer facility are prepared to respond to this kind of information.

Returning to the village is not easy. Neither is living there when you are cast as a "no good." In the past year I have traced a Yupik young man who was the first person to be incarcerated in the new modular unit in Emmonak, had been involved in many village incidents, and finally, was sentenced to Palmer. I discussed his treatment there with an employee. When he returned to the village he ran a boat up against the bank and was drowned.

In another case a young man was convicted of murdering his brother. However, his work as the town electrician and generator operator figured in the village's acceptance of him on bail and prompted trips by the council to Nome to petition for his return to the village after conviction with a suspended sentence.

There are many basic skills needed in all villages. Training could occur in urban areas. The lay aides could match offenders to appropriate programs.

Finally, the nub of the problem in village Alaska is juvenile drinking. If the Alaska Federation of Natives succeeds in bringing more high school students back to their villages, this also will have an impact on law enforcement. Lay correctional aides can counsel and supervise programs which offer options to aimless boredom that sets off drinking and carousing among young people in villages as well as in other places.

Implementation of the Correctional Aide Program

Lay correctional aides should be trained to serve each cluster of villagers in the team approach outlined elsewhere. Training programs can be developed at the Criminal Justice Center. Their success may turn on the Division of Corrections' placement of professionals in larger villages to supervise their work. This will mean that an additional two or three officers will be located in the bush.

Charles Addams strikes me as innovative within his own domain. My impression has been that corrections' timidity is in part determined by its status within the Department of Health and Social Services. It makes little sense for

McGinnis to represent corrections at a policy level. Apart from his speeches --- on Menninger, etc., I see little to indicate an affirmative stance by him with respect to corrections and the bush.

I think the court should make explicit its needs with respect to corrections in the bush and trade its support for urban jail reform for specific action by corrections with respect to villages. This action should include continued construction of modular facilities but should not stop there.

Health and Social Services needs a kick in the pants. Corrections needs support. It trots out the same researchers and shopworn plans with regularity.

Jury Trials

At a larger cost, the court is in a position to deny motions for changes of venue as exceptions to the bush trial statute to encourage trials, including jury trials in the bush. The administrator of the court can be more flexible in determination of physical facilities. The Minto conference was an excellent example of how a village can be mobilized to feed and house jurors and professionals. State and BIA schools have the capacity to undertake this task in many villages if their help is solicited.

Jurors should be selected from villages other than the villages where the offense is committed or the defendant resides but in villages in the same region and of the same linguistic category if prior knowledge is not to color jury proceedings. Trials also can be held in other villages in the region. Trials should not be held exclusively in Bethel, Barrow, and Kotzebue.

Jurors on grand juries should not be deselected for reasons of language competency, especially in Bethel as they are now. Grand jury selection should encompass the entire geographic area outlined in the rule in Bethel and in Nome.

Prospective jurors should be given a brief introduction to the judicial process prior to their selection.

Jury instructions need to be comprehensible. My own opinion is that jury instructions are rarely comprehensible to any lay person. A committee of judges should set to work to put standard instructions in plain English for all juries. From that, instructions for significant felonies should be prepared in each major Native language.

Superior court judges should go into an area where they do not formally reside if a designated number of cases are filed by a designated date. This suggestion by Frank Flavin has merit since scheduling seems more responsive to criminal cases pending than to civil cases pending.

Village constables. Adequate village policing is more important than jails, courts, judges, or any other aspect of the system. Village constables need to be trained in Athabascan villages. Constables need dependable backup from troopers. This means that troopers have to be fairly allocated and supplied with charter aircraft whether or not the air taxis bridle at this.

I suggest that at least one constable in a service cluster be prepared to prosecute a case on behalf of the villages, especially when a lay advocate represents the defendant. The trooper, however, should not prosecute a case.

Crucial to this reform and to the employment of mediation panels as screening mechanisms would be the attitude of prosecutors--Chandler, Luffberry,

/

and Lou Agi in Nome. To the extent they perceive these reforms as abridgments of prosecutorial discretion, they will fight them. I think they must be consulted and persuaded to leave a certain amount of control within the villages. They must be persuaded that detailed resolution in the village is often preferable to removal of the case for ultimate dismissal in a larger village or town.

Law Enforcement Assistance Money

Alaska was scheduled to receive \$1.9 million dollars in discretionary Indian desk money. This is but one category of discretionary money granted to applicant states over and above bloc grants and, in the case of Alaska, a supplemental grant to compensate for the small population base. Indian desk money is disbursed through the Seattle office of region X. Other discretionary money in other categories is disbursed through Washington. That \$1.9 million has been cut to \$400 thousand.

The Criminal Justice Planning Agency and others had already promised various villages small projects in anticipation of receiving a large sum. Although the state Criminal Justice Planning Agency was informed of the cut two months ago, it made no attempts to rearrange its programs according to budgetary restrictions or available money in other categories. It told nobody outside of their circle, including Jim Messick. Their attitude, as indicated by a hearing for "input" chaired by Larry Parker, Victor Carlson, and a third person, is that Native projects must compete for Indian desk money only, and for all practical purposes this money has been committed.

Walt Lawson of Region X suggested that such projects as dispute settlement through mediation boards be funded through multiple category funding. That is, they seek funds in any category to which the project relates and not just the Indian desk.

The hearing heard proposals for a paralegal program proposed by Legal Services with joint support by the public defender program and a request for support for the Bush Justice Monitoring Committee. The response was basically that the Indian money was already overspent.

More specifically, Judge Carlson pointed to projects already promised, mentioning several Southeastern projects. He said he had met with Hyatt and that the paralegal program at Anchorage Community College would be expanded to deal with bush paralegals. He and Parker told how hard it had been to recruit a bush planner. Parker said that half of the past year's money was spent in the bush but did not elaborate.

I personally like Victor Carlson and think that his philosophy is generally progressive. However, I detect a strong political bent in his representation of the court on the governor's commission.

To be specific, his concern for specific Southeastern Native projects, his own linkage of Native projects solely to Indian desk money belie his private expressions of liberalism. With respect to the paralegal project, to suggest as he did that it was going to be handled by the Law Center without considering the agencies which will need people trained to their needs if they are to be employed is foolhardy. Paralegals must be matched to careers which are real. Also, Legal Services has contact with useful training material developed by Statsky and others. When or if the college will develop innovative programs and locate them outside of Anchorage remains to be seen.

The monitoring committee met similar dismissals. It was interpreted by the planning agency as a monitor of Indian desk programs when, in fact, its implications are to monitor the work of criminal justice agencies which affect the bush.

The recruitment of the bush planner may have been widespread, but nobody I know had ever heard of the recruitment for the temporary staff position on the CJPA.

Flavin's reaction to the hearing was that he felt kept on the fringes. This has been the consistent treatment of advocates of reform of bush justice before CJPA. (I have attended these hearings since Boney represented the court).

On September 27 or thereabouts the CJPA is going to focus on Indian related projects at a hearing. Perhaps it will be another rubber stamp affair. It is clear that Lawson, the federal representative, is prepared to search widely for funds to subsidize bush-related projects. I doubt if Parker is smart enough to obtain this assistance. If the court is going to attempt to coordinate the use of funds by different agencies in the bush, it is going to have to hurry.

The LEAA consultants for the criminal justice center suggested adoption of a village plan peopled by paralegals much as I have described it. However, the criminal justice center will not receive the money available in Indian desk money to carry out this ambitious project. Furthermore, the court's attitude in stating flatly that it would do its training elsewhere has not strengthened its position regarding the purposes of the center.⁴ Finally, everyone is waiting to see if Jim Irany will use center money to feather his own nest.

⁴I cannot tell whether the court intends to conduct magistrate training in conjunction with the center or not.

I suggest that bush-related money, including but not limited to Indian desk money, should be channeled to the agencies and controlled through a small interagency task force on bush justice organized by the court.⁵ As much as I despise committees, the alternative will be to allow agencies to chase the LEAA and state money according to their own desire or lack of desire to develop bush programs. If the court adopts my plan or some modification of it, it can lead because it can demonstrate that cooperation and expansion of other programs is essential to the court's work.

For example, the Department of Public Safety would like to pay constable salaries with LEAA money to stave off demands that they pay constables out of their operating budget or, more significantly, that they "lower their standards" and take on more Natives as troopers for bush duty. Although this does not seem to be a useful goal for nonrecurring funds, there are other funding needs of the troopers that should be vigorously supported by an interagency task force. These include support for air transport to allow the troopers to have improved response capacity in the bush.

The Division of Corrections is not likely to pursue money which it could receive unless it is persuaded to expand its rural program.

Alaska Legal Services is left out of LEAA funding although arguments can be made that much of its work in areas of consumer fraud, etc., relate to improvement of criminal justice. A task force could encourage the public defender agency to join with ALSC and develop a paralegal program that is compatible with both departments.

⁵ Bill Nix suggested this to me and names people in each agency who were close to the top and strong in their own agencies.

In sum, although the criminal justice center will have a component on bush justice,⁶ in the near term the money for programs is elsewhere and coordination in absence of university leadership or expertise must occur elsewhere.

Interpreter program. The interpreter program has not begun. In fact, I learned on August 8th that the grant proposal had languished on Messick's desk and had only been sent to the LEAA district three days earlier. This illustrates the need to have at least one court employee who is a bush advocate and who can monitor bush programs.

Susan Burke's interagency memo on the senate bill on interpreters needlessly ruffled the feathers of some politicians when it was released as a letter. The treatment of the interpreter program illustrates some basic problems within the court bureaucracy.

First, interest in bush programs is very much dependent on the desire of one individual or another to take on, or appear to take on, responsibility for a project. The court staff does not really encourage other agencies to carry them out by helping other agencies secure funding to do so. Illustrations include the Nix attempt to draft ordinances for a few villages, the publicity showered upon the interpreter program as a court project while the actual implementation of the project languished, desire of Hicks to do research on bush justice although the Judicial Council is less interested in advocating solutions to bush problems, etc.

The magistrate supervisor must be perceived as a bush advocate. He should work closely with the monitoring committee set up at the Minto con-

⁶ See the relevant portion of the consultant report which I have included in this mailing.

ference. His occasional adversarial relationship may not please Snowden and others. However, it is clear that the other attempt to generally cover all of the bases--locating modular units, doing ordinances, etc.--has left everyone frustrated, including Snowden who complains that the court is doing it all.

The court should consider a crash program to obtain suitably trained interpreters for urban courts in each major dialect. According to Irene Reed, Eskimos known to her as ill-equipped to carry out this work interpret in urban courts. Perhaps the Yupik program should be expanded to allow for this in that language group.

Research and the Judicial Council

There are clear needs for further research tailored to policy reforms in the court. Some of this research concerns:

1. Basic information regarding magistrate activity.
2. Analysis of sentencing of village offenders in magistrate, district, and superior courts.

Development of basic research programs could take place at the Criminal Justice Center if personnel were willing to contract with one of several national centers on law and society to develop superior research projects and if the university designed the project in close collaboration with the interagency committee.

In this as in other arenas where work is not clearly delegated within the court, there is a scramble for responsibility and an ad hoc development of LEAA funding contacts to carry it out.

village TV networks and to use them in conjunction with training of magistrates in the village. I have given a list of potential films to Chuck Orr. (See below for later comments by Orr.)

Some immediate attempt should be made by the court to develop and record on tapes the basic rights advised during arraignment in Yupik, Inupiat, and in Athabascan so that district court and superior court judges can employ them whether or not they have access to interpreters during arraignment.

Judicial Service - The Cost Component and Its Bearing on Jurisdiction

Court interpretation of prevailing statutes suggests that local governments should bear the cost of judicial services. All court informants emphasized that this issue was treated as a separate contractual issue from the affirmative duty of the court to provide judicial services throughout the state. However, this severance is not really true where enforcement of local ordinances is concerned.

Nix advised the Aniak magistrate in December, 1973, that she could not enforce local ordinances unless they were examined by his office to see if they were constitutionally sound and some cost sharing arrangement had been worked out. This same magistrate told me that although she traveled into surrounding villages to hear state cases, she had been told that she could not enforce their local ordinances.

The issue of cost sharing as a contractual issue between the courts and local governments has been avoided because of the conflicts between Anchorage and the court system. I can foresee someone raising this as a substantive issue if the court:

1. Employs the magistrates primarily as local ordinance adjudicators;
2. Attempts to hold more jury trials in the bush since the local city usually puts up a bond for expenses.

I suggest that this issue be met head-on with some policy statement which reaffirms the court's commitment to serve rural cities which cannot at this time share these costs. As an alternative, the costs can be translated into in-kind contribution of physical space for hearings as is now the case in Fort Yukon and Fairbanks.

The Barrow Service Area

Nix suggested to Snowden that a district court was justified in Barrow by caseload as it is justified in Juneau, Ketchikan, and Wrangell. If Barrow cluster included all northern villages and if the district judge took on responsibilities comparable to Nora Guinn, a district court probably should be established there. The establishment of a district court there should be contingent on comparable moves by Alaska Legal Services and other agencies to provide either regular service or paraprofessionals in this area.

Organizational Intrigue and the Court

An example of the real blocks placed before useful coordination between justice agencies by court personnel is the recent attempt at collaboration on movie making between Alaska Legal Services and Chuck Orr of the court system.

Orr approached Legal Services concerning a colleague who was capable of making short legal education films. Legal Services had an education staff but no real funds or technical capacity to make films. Legal Services could provide scripts for the films. At the time, it was thought that there would

~~be sufficient Indian desk money to fund such a project. Orr requested ideas~~
for films and I provided them. Orr promised to write a preliminary draft of a grant proposal.

A meeting with a prospective film maker was arranged. However, before that meeting or a hard discussion of budgetary realities took place, Orr called to tell me that Bob Hicks had advised him against collaboration with Legal Services on such a project since the agencies were, after all, in an adverse relationship.

I am not suggesting that the film project was a good one. However, there are certainly areas where integration of agency effort must occur or reforms will not proceed.

Examples: Alaska Legal Service may be able to provide legal education material that court interpreters can try out in schools and public meetings as part of their training. The interpreter project may generate material for the legal education project of other agencies to use (in fact, the grant suggests this as a goal).

Sharing of information about the projects' progress and even cross-funding may be necessary to accomplish this.

A paralegal project must involve training for jobs available in Legal Services and the Public Defender Agency.

Yet it appears that these agencies and their own plans for training and placing paralegals will have no more status than "input" at public hearings when money for training paralegals is allocated to the Criminal Justice Center.

Our long-term relationship with the court staff has been replete with instances of being frozen out of information and involvement until we bitched sufficiently to you.

Rather than attack the interpreter bill with a letter that claimed the job had been accomplished, candor on the part of the court would have been the high road and would have won the support of Croft and others for funds the court needs.

What I am suggesting is that if the court is to push other agencies into action and demand candor from them, its staff must be more willing to deal with other agencies and university types with something other than disdain or as the enemy who will "find out about them" and "blow the whistle." Perhaps what I am hoping for is not of our bureaucratic world. I have seen individuals, such as Hicks, of remarkable talent and social commitment sucked into this maze of paranoia and tailor his relationships to uncertain perceptions of the desires of higher-ups, most notably Snowden and Rabinowitz.

At the moment the relationships are mellow because our relationships have mellowed.

Can the court system personnel focus on goals at the expense of self-interest in budget or project building? Can the personnel of any governmental agency? The personnel of the court are few enough and talented enough so that self-protection, organizational in-fighting and the scramble for funds and responsibilities within the court and the justice system can take a back seat to interagency planning. This may dictate sharing of funds and responsibilities for seeking funds for other agencies.

Open planning should flow naturally from the open concern for new ideas which you and other justices have demonstrated. It does not. How then can your people be made to feel secure enough within their own family so that they can share ideas, projects, and funding possibilities with other agencies that also desire to move the system forward? I do not have the answer. If the court system personnel cannot resolve this issue, it will be hard to expect other agencies to accomplish it. I can only suggest that you throw this question to a management consultant who, armed with your goals, could spend some time on the fourth and fifth floor, learn about other agencies, and raise this curtain of suspicion so that the court can work with other agencies as co-equals and pull the system forward.

ALCOHOL CONTROL AND NATIVE ALASKANS -
FROM THE RUSSIANS TO STATEHOOD:
THE EARLY YEARS

Alcohol Control in Village Alaska

by

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Alcohol Control and Native Alaskans--

From the Russians to Statehood: The Early Years--Abstract

A persistent thread throughout the legal history of Alaska since Russian contact with the Great Land until the present has been deployment of available legal resources to curb drinking by Alaska Indians and Eskimos. The long-held social belief on the part of white colonialists and government agents that Alaska Natives could not drink and became wild persons when intoxicated was translated into an unrelenting legal practice of focusing law and available legal resources on control of Native drinking and prosecution of those who supplied Natives with drink.

Even during four periods of territory-wide prohibition, the prohibition was enforced against Natives and suppliers to Natives, while enforcement was indifferent or nonexistent against territorial whites.

The historical overview confirms the propositions set forth by MacAndrew and Edgerton (1969) that American Indians can trace current drinking problems to the prior expectations implemented as government policy. It also suggests that dependence on law only as a mechanism to change drinking problems can, in fact, exacerbate drinking problems and create among the impacted group problems with alcohol which may not otherwise have existed.

The dependence on law as a vehicle for social control in Alaska in recent years may relate to an absence of alternatives. However, this singular dependence on law enforcement flows from a "grand tradition" of governmental paternalism which can be interpreted as being as much a cause of drinking problems among Natives as a solution to them.

Alcohol Control and Native Alaskans--

From the Russians to Statehood: The Early Years

If one seeks a single thread along which to trace the activity of legal authorities from the days of the Russian-American Company to the daily activities of troopers and police in modern day Bethel or Barrow, Alaska, no better selection is available than promulgation and enforcement of controls against alcohol.¹

Alaskans experienced four periods of official prohibition from 1875 to 1934, the repeal of national prohibition. Yet this experience was never one of uniform application of prohibition. The very limited resources of government in Alaska focused their attention upon prosecution of Natives who drank and those who supplied Natives with drink. Alaska Natives as "American Indians" and their suppliers were subject to unofficial military policies as well as other federal, territorial and municipal laws which were Native-specific.

Even after liquor was legalized in the territory and made subject to administrative regulations, Natives were, until 1953, banned by federal law from purchasing and using liquor.

After 1953, laws which controlled drinking behavior were, on their face, "color blind." However, statistics on application of such color blind laws demonstrate that Alaska Natives remained the primary targets of such statutes. The picture did not change with the decriminalization of drunken behavior in 1972 and the replacement of drunk in public statutes with jailings under protective custody or open bottle ordinances in use in towns and villages in the last quarter of the 20th century.

Alaska Natives have for more than 100 years been the special

and often exclusive targets of alcohol control policies. Researchers can only speculate on the impact of the persistent relationship between generation upon generation of Indians and Eskimos and a Western legal tradition which communicated by letter and by act that they could not be expected to "hold their liquor," that they lacked the self-restraint to imbibe without turning into wild men and women, and therefore needed external and paternal support structures of the law.

The unrelenting stream of prohibitory acts which flowed from official legal actors complemented the pronouncements of missionary sects who carved up the state into religious fiefdoms and proceeded to educate and civilize the Natives according to Christian, bourgeois standards of living.

Both missionaries and law enforcement agents (Oswalt, 1963; 1979:286) looked to politically active temperance movements for support in obtaining congressional appropriations. Thus, virtually all reports from the early period must be read with a "grain of salt."

If early anecdotal reports from Canada and Alaska are to be believed, the literal taste for alcohol by Northern Natives was not easily acquired (Hunt, 1975). However, whalers, fur traders, fish processors, the military and the prospectors soon developed a "seller's market" for liquor and traded it for labor, sex, fish and furs (Oswalt, 1979:293).

Manufactured liquor was supplemented with various forms of homebrew, described as deadly by commentators of the time. Accompanying the introduction of alcohol of high potency was a drunken comportment typical of the seaman or prospector, behavior

which involved no-holds-barred aggression and "letting off steam."

Thus, Natives received more than a taste for alcohol. They received a lesson in what was apparently the only comportment which flowed from drinking. Further, not only the suppliers, but, ironically, those who tried ineffectively to curb consumption and production of alcohol made the drug a commodity to be especially prized and consumed rapidly and in its entirety whenever and wherever it could be obtained.

Ironically, law enforcers and their allies in the religious community worked with their apparent adversaries, the alcohol suppliers, to make liquor for Natives at once a scarce valuable commodity.

Russian Period

Even before the purchase of Alaska from Russia, the Russians instituted a system of supplying alcohol to their vassals among Aleutian and Eskimo people in their domain (Hunt, 1975).

Murton (1965:ix) reports that the Russian-American Company had a policy of selling rum to the Natives in exchange for trade advantages. The company set up a policy of rationing liquor to Aleuts engaged in harvesting of fur seals and vigorously prosecuted manufacture of homebrew in order to secure dependence of the Native population upon its stores of alcohol (Crain, 1957).

[V]odka was a general palliative in the colonies, a weakness the authorities exploited, at least during the early years. As in all other commodities, the Company enjoyed a liquor monopoly; article II of the employment contract sought to prevent both the purchase of liquor from foreigners and its distillation at home:

"Everyone in the service of the Company is forbidden, under any pretext whatsoever, to distill liquor from herbs, roots, berries, Company grain, and so forth; or to buy or barter liquor

from visiting foreigners and trade in it on Company premises, to make loans or give money to each other for drinking purposes, then drink liquor or use it in any way at all. . . .

But in no way did this reflect a general prohibition attitude, for the Company was quite willing to sell liquor to its workers. Far from discouraging liquor consumption, alcohol was employed to get and to keep the employees in debt and hence to bind them to service in Russian America. Baranov admitted it quite frankly:

"Here there is no need of gold, silver, or precious stones. Among the provisions there is only one which is more expensive and more important. . . . Next to articles of clothing and footwear liquor is dearer to the workers than anything else in the world. And if it is a question of getting people in debt, just send over some [liquor] and have it sold in moderation when necessary, especially at times when the income is being divided up ['half-share' system], and you will see how much of the income will be passed out and how many people will get into debt" (Crain, 1957:117-118).

This same use of legal controls on manufacture and consumption of quass continued as a legal policy into the mid-20th century when the Alaska Commercial Company purchased the assets of the trading company and the United States Treasury Department took control of the Pribilof Islands and the harvest of seals in that area (Hunt, 1975:247).

American whalers and their crews began an active trade of ammunition, liquor, tobacco and firearms in the 1830s for whalebone, ivory and the sexual favors of women which the Russians could not suppress (Hunt, 1975:132). By the time that Revenue Marine cruises became regular means of law enforcement, the liquor trade had been underway for more than 40 years (Hunt, id.). Drinking sprees coupled with over-hunting of island sea mammals by seamen resulted in widespread annihilation of coastal Eskimos

by famine and disease.

The Military Period

From the Treaty of Cession in 1867 to the passage of the First Organic Act of 1884, Alaska was without its own civil government. Law and order was meted out unofficially by miners' meetings and officially and unofficially by the military and by the collector of the customs.

Two weeks prior to ratification of the Treaty of Cession by the congress (June 20, 1867) the secretary of the treasury ordered Captain W. A. Howard and the Revenue Cutter Lincoln to proceed to "Russian America."

As Murton (1965:ix) related it, Howard anticipated the official policy of the Treasury Department, reporting to his superiors:

As I have received no instructions in regard to the course to be pursued toward these incendiaries, I shall, when our flag has been hoisted over the territory, destroy all liquors brought into it for traffic, and send the vessels away, if under American colors; if any other nation, seize and send them to the nearest port for adjudication. I hope this course will meet the approbation of the department. Until laws or regulations are perfected for the government of this territory I shall consider it as an Indian reservation, so far as liquors are concerned.

This extralegal policy anticipated the Congressional Act of 1868 which made of Alaska a customs district and gave the President authority to regulate importation and sale of distilled spirits. Thus, customs laws and general United States statutes governing Indian lands were the only official laws which were applied to Alaska until the First Organic Act of 1884 (Spicer, 1927).

General Hallack requested and received confirmation in 1867

that the territory was Indian country from E. Pershine, Examiner of the Bureau of Claims (Murton, 1965:ix), and directed Jefferson Davis to establish his headquarters at Sitka. He established forts near larger tribes and villages and began to patrol coastal regions of Southeastern Alaska. Sitka was designated a point of entry by the 1868 act. Along with the customs collector, U. S. Revenue Marine Officers of the Treasury Department were charged with enforcement of customs laws.

Although the Treasury Department Regulations were initially defined as not pertaining to the local brewing of hootch, customs officials soon became concerned with the manufacture and sale of locally brewed liquor (Nichols, 1924/1963).

Combined efforts by the military and customs continued to about 1877 when all military posts were closed. Customs officials continued to seize stills and lock up offenders in abandoned military stockades (Nichols, 1924/1963:12). Such efforts were determined to be extralegal by the secretary of the treasury (Nichols, id.).

When an 1872 case found that Alaska was not Indian country, congress passed special legislation for the territory to extend the liquor laws to the territory.

Though uncertainty over the War Department's jurisdiction continued to plague the Department, Alaska troops were dispatched to Sitka in 1874 to arrest anyone selling intoxicating liquor. The collector of customs at Wrangell was arrested (Nichols, 1924/1963:15).

The Army was reluctant to proceed with enforcement of law in the territory. Its jurisdiction over offenses other than liquor offenses was dubious; when it had transmitted cases to Oregon for trial, it had met with dismissals for failure to present defendants

for trial before civilian judges within five days.

When the military withdrew in 1877, their impact upon liquor control could be evaluated. They had taught the Indians to make hoochinoo.

Wheeler notes:

For the soldiers on liberty there was very little to do. Worse, liquor was forbidden in the district. This put quite a strain on the soldier's ingenuity but they proved themselves equal to the challenge. The Indians had been brewing an innocuous beverage made with bark and berries for generations; now the soldiers taught them how to beef up this bland stuff with molasses and yeast and then distill it. The result was a skull-splitting concoction that was called hoochinoo (a shortened form of which soon attained a place in American slang) (Wheeler, 1977:60).

Murton quotes Henry C. De Ahna on the situation in the white enclave of Sitka:

The state of things in Sitka is just as bad and disgraceful a state as can be imagined; there is no law or order of any kind, and no means to enforce either. In the town every other house is a clandestine distillery; and in the Indian village every habitation is one. The prohibition of liquor importation has no other result, so far, but that of changing drunkards of ordinary stamp, Indians as well as whites and half-breeds, into actual raving maniacs. Their home manufactured liquor (ouchenue) is almost equal to rank poison, and much worse in its effects than would be produced by the drinking of high wines direct and hot from the mouth of the still" (Murton, 1965: 38).

The military left the customs collector with the same improbable task of policing 34,000 miles of coastline with the same limits on budget and on transportation.

In short, the prohibitionists did little to control liquor and more to expand its use.

The Navy and the Missionaries

Sheldon Jackson, a Presbyterian minister, arrived in Alaska at the military's departure. This human dynamo, easily the most

significant figure in Alaska's history, returned to the contiguous United States to successfully lobby educators, churches and the congress to provide education for the Natives, provide civil government for the territory and, most importantly, enforce liquor prohibitions.

Temperance movements (along with Indian uprisings) spurred the introduction of the Navy as the mainstay of Alaska governance until the passage of the First Organic Act in 1884. Their efforts were assisted by teacher-missionaries who battled the smugglers and hootch manufacturers in coast villages throughout Alaska.

Lt. Beardslee arrived in the Revenue Cutter Jamestown at Sitka on June 14, 1879. He assisted the customs collector for about a month in making raids on smugglers in the harbor, but then gave up. He realized that Navy officials were not designated as enforcers of the importation prohibition. More pragmatically, he discovered that most of the liquor was manufactured in the district by Indians and not smuggled (Murton, 1965:56). When Captain Henry Glass replaced Beardslee, he sent four prisoners to Oregon for trial on illicit distillation of spirits. Three received sentences of a year in prison (Murton, 1965:58).

Glass threw the weight of his authority behind the missionaries and required Indian children to go to schools where temperance was taught in the classroom. Headmen of villages were fined or imprisoned when children failed to attend (Murton, 1965:58).

Pleas for civil government in Alaska were met in 1884 with the First Organic Act. It provided the territory with a governor, district judge, clerk of the court, district attorney, U. S.

marshall, four deputy marshalls and four U. S. commissioners.

The questionable legal position of prohibition was put to rest by Sec. 14 of the Act: (37 Stat. 512)

That the provisions of chapter three, title twenty-three, of the Revised Statutes of the United States, relating to the unorganized Territory of Alaska, shall remain in full force, except as herein specially otherwise provided; and the importation, manufacture, and sale of intoxicating liquors in said district except for medicinal and scientific purposes is hereby prohibited under the penalties which are provided in section nineteen hundred and fifty-five of the Revised Statutes for the wrongful importation of distilled spirits. And the President of the United States shall make such regulations as are necessary to carry out the provisions of this section.

The 1884 act marked the successful culmination of the missionary lobby to ban manufacture or importation of liquor. Yet, the 4,303 white minority of Alaska in the 42,000-person territory was swelled by the first of successive waves of miners in the period. Their position and that of merchants and other civilians was that congress had passed the prohibition law for the Indians and not for the whites. Sherwood reports five breweries and at least 60 places where liquor was either made or sold not including many clandestine operations (1967:310).

Grand and petit juries empaneled from among white citizens refused to indict whites charged with selling to whites; sale to Indians was treated as a serious offense (Nichols, 1924/1963:106).

When a missionary near Juneau was shot while attempting to prevent the landing of liquor, Nichols reports that "the court found him to have been guilty of piracy in boarding a ship without authority, and dismissed those responsible for his death, with fines for giving liquor to an Indian" (Nichols, 1924/1963:106).

A miners meeting in 1896, reflecting the local vigilante justice which assisted ineffective law enforcement by U. S. Marshalls, authorized sale of liquor to whites only (Murton, 1965: 142).

Outside interests lobbied congress on the liquor issue. On one side stood the Federation of National Temperance and religious organizations. On the other stood steamship interests and their congressional allies as well as the emerging saloon and brewery interests in the territory. Sixty thousand gallons of smuggled Canadian liquor flowed into the territory in 1898 (Nichols, 1924/1963: 160).

The four U. S. commissioners and four deputy marshalls appointed under the 1884 act found themselves at the mercy of the Alaska Commercial Company. When the deputy at Ounalaska on the Aleutian Chain, 2,000 miles from Sitka, ran afoul of company employees, he was denied goods and provisions by the store and forced to resign (Murton, 1965:73).

The same deputy charged the agents of the company with trading rum and liquors to Natives in exchange for furs (Murton, 1965:76). The same charge would be made against traders and their agents throughout Western Alaska.

Lack of transportation for marshalls or customs collectors made enforcement of law nearly impossible and gave free reign to traders west and north of Juneau. The new Ounalaska marshall asked the attorney general for a rowboat in 1891 (Murton, 1965: 85) and the second governor reported in 1890: .

The temptation for unprincipled men to engage in smuggling intoxicating liquor and opium into this Territory is very great; and yet the collector of customs upon whom is laid

the duty of preventing it, has been furnished only a single rowboat with which to patrol and guard 3,000 miles of coastline (Governor Knapp, quoted in Murton, 1965:85).

Attorney General Miller refused (Murton, 1965:86).

The absence of supplies, expense money, transportation and even law books (though congress had appropriated \$500 for them in 1895 [Murton, 1965:95]) spoke volumes regarding the influence of commercial interests who desired to employ liquor and breech-loading rifles in their trade with whites and Natives, particularly the Alaska Commercial Company, which by 1875 had established 23 trading posts along the coast (Murton, 1965:132).

Where enforcement of territorial prohibition occurred, Natives and not whites were the targets:

Officials in Alaska charged with the responsibility of enforcing this law, almost without exception, testified to the total lack of enforcement of it in so far as white men were concerned, the impossibility of enforcement with the means at hand, and to the consequent demoralizing effect of such a law, which as "constantly, openly and flagrantly violated," . . . upon law in general.

The United States district attorney for Alaska in a statement to the governor in 1891, relative to the steps taken to enforce the prohibition law, declared that the violations of the liquor laws had been the source of more anxiety and labor to all the officials in Alaska than all other violations of law combined, and that he found public sentiment almost a unit against the enforcement of the prohibition laws. The condition of affairs with respect to the liquor laws in Alaska as seen by the district attorney may best be stated in his own words, in the Governor's report:

There now are (1891), said the district attorney, and for many years have been, within the Territory two or three breweries manufacturing and selling beer for other purposes than those prescribed by the statutes. There are also many persons openly engaged in selling intoxicating liquors contrary to law. These facts I have laid before each grand jury, advising them that it was their sworn duty to indict all such persons. Yet in every instance

they have not only refused to indict, but have refused to hear any testimony upon the subject whatever. Some of these grand juries have been composed of the best representative citizens of the Territory, yet the sentiment is so universally against the enforcement of the present liquor laws that no indictment can be had and no conviction secured except where the liquor has been sold or given to a native (quoted in Spicer, 1927:54).

The Revenue Cutters

The Treasury Department sent the Revenue Cutter Corwin to the Bering Sea in the 1880s to rescue whalers, stop indiscriminate slaughter of fur seals and put down trade in illegal rifles and liquor among the Natives. In the following decade a refuse station was established in Point Barrow.

The Corwin, and the Bear meted out law and order by removing violent offenders for trial to the south. As became the case for nearly a hundred years thereafter, the law appeared, made its presence felt and then disappeared over the horizon.

In his report on his 1880 voyage through Arctic waters, Captain C. L. Hooper reported that he seized the American schooner Leo near Kotzebue Sound. The Leo was filled with cases of alcohol labelled "Bay rum," "Jamaica ginger," "pain-killer," "Florida water," none showed on the manifest (Hooper, 1881:21). Hooper contacted various settlements of Inupiat Eskimos and had his interpreter lecture them on "the evils of whiskey-drinking" (Hooper, 1881:26).

"Generally they seem to realize that they would be better off without it, but freely acknowledged their inability to refrain from drinking, when liquor is placed before them" (Hooper, 1881:27).

The Natives at Point Barrow reported to Hooper that several

years before many had failed to hunt seal for winter use and starved after a trader brought in a large quantity of liquor.

Hooper described the liquor trade as it then existed and offered a solution:

The manner in which the whiskey trade is carried on is well known. Vessels clear from San Francisco with alcohol for the Siberian coast, giving bonds not to dispose of it on the American side, and on their return produce a certificate, signed by some of the ship's company, but purporting to be from some person at Plover bay or St. Lawrence, in Siberia, to the effect that the alcohol was landed at one of those places. In all probability they have not been within one hundred miles of either place.

Even admitting that the liquor was landed as they claim, the result is the same; it is drunk by the Tchuktchis or carried by them to the American side and sold. Other vessels clear from San Francisco with large quantities of bay-rum, Florida water, &c., which are sold to natives for drink.

Still another class, which includes many whalers, take in a supply of alcohol at the Sandwich Islands. In order to break up this illicit traffic, I respectfully offer the following recommendations: That the collector of customs at San Francisco be instructed to refuse a clearance to any vessel having on board alcohol for the Siberian coast, as such commerce is in violation of the laws of a friendly power. A large portion of this whiskey, as before stated, finds its way to the natives of Alaska, either through fraudulent action on the part of the traders, or by native barter.

It is also respectfully recommended that all whalers clearing from San Francisco be notified that hereafter the laws relating to the introduction of fire-arms and liquor into Alaska, will be rigidly enforced. A revenue cutter should be detailed each year to cruise in the Arctic Ocean, until the illicit trade is entirely broken up. The vessel should leave San Francisco early enough to reach St. Lawrence Island in advance of whalers and traders, and should follow them into the Arctic, keeping a close watch on their actions, and searching them thoroughly, whenever found within the jurisdiction of the United States. With the co-operation of the Russian Government, this contraband trade might be wholly destroyed. Active measures on the part of Russia would not be necessary; the concession to the United States of the right to search suspected vessels for contraband goods on the Siberian coast would be sufficient. I would respectfully recommend that some action be taken by

our Government with a view to obtaining this concession.

A glance at the chart will show the impossibility of one cutter protecting the entire coast of Alaska. The Arctic coast-line between Cape Prince of Wales and Point Barrow is some seven hundred miles in extent. This is fully as much as one vessel can attend to (Hooper, 1881:63-64).

Reports of the Revenue Cutters continued to focus upon the impact of rum trade with the Natives for the edification of the congress and for the probable edification of temperance advocates who helped secure appropriations for such voyages.

Captain M. A. Healey noted in his 1885 report that the transformation of Eskimos under the influence of alcohol was remarkable.

Naturally peaceful, of a kindly and hospitable disposition and seldom, if ever, quarrelsome when sober, under the influence of a small quantity of liquor they become demonic. The most brutal fights occur when they are in this condition. Their long, sharp hunting-knives make frightful wounds, and their rifles are used without restraint and with deadly effect. In former years our surgeon has often been called upon to dress these wounds. On the bodies of several Indians [sic] I have seen marks of bullet wounds received in these drunken brawls, and the Amolek [leader] of the Diomeses, a comparatively young man, bears three deep scars which he proudly told me he had received in fights, and as proudly boasted of having killed two men while drunk (Healey, 1887:17).

Continuation of Indian Police-Colonialism American Style

Governor Swineford, the territory's second governor, appointed in 1885, discovered that the Indian police, leaders and the chiefs of villages near Sitka appointed by the Navy, had not been paid in six months. He made himself personally responsible noting:

The Sitkan native policemen are exceedingly proud of their blue uniforms, and being the recognized chiefs among their people exercise a dual authority, which is universally respected and obeyed. Their authority is confined to their own village and to such an extent it is respected, so faithfully and diligently do they discharge the duties devolved upon them, that the

manufacture of the vile intoxicating compound known as "hoochinoo" has been entirely broken up--a fact, I am informed which does not apply to any other native village in the territory (Report to the Secretary of the Interior, Vol. 2, 1885; Annual Report of the Governor, 1885:920).

Swineford asked for 30 more Native police "for the promotion of cleanliness, sobriety and good order among the Indians, without which conditions first obtained, the work of the teacher and the missionary cannot be productive of permanent good" (id.).

Territorial Indian police became a fixture of rural law enforcement for at least 22 years. The 1904 Governor's Report notes Indian police in Sitka, Haines, Wrangell, Ketchikan, Hoonah, Kasaan, Klawak, Metlakatla, Kake, Saxman, Circle, Tanana, Iliamna, Rampart and Bethel. Police were appointed where white contact was extensive (Annual Report, 1904:3). In 1907, seven police were listed including ones in Juneau and Petersburg. (Annual Report 1907:25)

Indian police were not unlike toyons (Crain, 1957:139) appointed by the Russians among its conquered Native peoples to maintain authority through traditional leadership. At least one graduate of this system became a liquor suppression officer (letter from Governor Troy to Secretary Ickes, 1933).

Evolution of the Alaska System in 1899 and a New Approach to Liquor Control

In the late 1890s the great Alaskan gold rush began. "A dozen paddle-wheeled steamers and launches plied up and down the Yukon River carrying hundreds of frenzied miners (Jenness, 1962: 13). After the Yukon rush came the Nome rush and the town exploded into a city of 20,000 persons. The law was challenged to move from its bases of operation in Sitka and the Aleutian Chain to Interior Alaska and the Western Coast. Pressure was laid

upon congress to expand the judiciary and law enforcement and to provide Alaska with its own set of criminal laws.

Natives were impacted in new areas of Alaska and with a new intensity.

Jenness describes the impact: "Prospectors wandered into Eskimo settlements, hunted and trapped in hereditary Eskimo hunting-grounds and engaged Eskimo men to transport their supplies by boat and dog-sled" (1962:13).

This new influx of whites jointed international "Jabbertown" communities of whalers in place on the North Slope since the mid-19th century, seasonal communities of fishermen near Bristol Bay and long-established and perhaps the only semicivilized communities of whites in Southeastern Alaska.

Non-Native communities, then, were in the main barbaric in their attitude toward liquor and Native women. Binge drinking prevailed among the white minority to which some Natives appended themselves.

In miners' camps, the Natives "were mere hewers of wood and drawers of water; but they welcomed every opportunity for wage-employment on tasks with which they were already familiar, and on mechanical jobs, such as operating marine and stationary engines" (Jenness, 1962:13). King Islanders were longshoremen at Nome when the ships unloaded. Other Eskimos operated motorized schooners.

Contact with liquor followed contact with miners and their settlements.

In 1897 President McKinley, taking note of the gold rush in his first address to congress, demanded a system of local government and at least two additional judges (Naske, 1973:4).

The first piece of legislation extended homestead laws to Alaska and made provision for reciprocal duty-free imports between Canada and Alaska. The second piece was more important; it introduced a code of substantial and procedural criminal law.

Liquor

Along with legislation to create criminal (and later civil) law in the territory were modifications of the federal position on liquor for whites. After Senator Dolph of Oregon discovered, on his second visit to Alaska, no fewer saloons or breweries than in 1886, he introduced a bill which substituted high license fees for prohibition. This position was supported by the territorial marshall, judge and district attorney and by a Juneau grand jury (Alaska Legislative staff memo No. 14, 1956:7). Temperance people opposed it (Nichols, 1924/1963:118).

Breweries paid \$500 and sellers \$2,000 for towns over 1,500; \$1,000 over 1,000; and \$500 otherwise. The attractive feature of the new approach was that revenue was captured to be used for public schools and for public buildings. For example, when two new judgeships were created, one in Nome and one in Eagle, liquor revenue built the courthouses and jails (Wickersham, 1938:39).

Liquor revenues, thus, became a mainstay of public funds and, in fact, continued to be so into the late 1940s.

Along with new judges came new marshalls and U. S. commissioners for each judicial district (Alaska Legislative Council staff memo No. 14, 1956:18). Purchases by or sale to Alaska Natives, intoxicated persons or habitual drunkards continued to be prohibited by law.

That if any person shall, without the authority of the United States, or some authorized officer thereof, sell, barter, or give to any Indian or half-breed who lives

and associates with Indians, any spirituous, malt or vinous liquor or intoxicating extracts, such person shall be fined not less than one hundred nor more than five hundred dollars or be imprisoned in the penitentiary for a term not to exceed two years.

That the term "Indian" in this act shall be construed to include the aboriginal races inhabiting Alaska when annexed to the United States, and their descendants of the whole or half blood, who have not become citizens of the United States (Report of the Governor, 1909:41).

Thus for a time, the letter of the law came to reflect the actual operation of liquor laws against Native people. It had been impossible to impanel a grand jury to indict or petit jury to convict violations other than sales to Natives (Report of the Governor, 1896:203; Report of the Governor, 1897:176).

In 1909 the law was amended to reduce the license fees from \$2,000 to \$1,000, eliminate the graduated fee, and to provide for \$500 licenses for steamboats and roadhouses (Alaska Legislative Council staff memo No. 14, 1956:8).

Four years later the new territorial legislature passed a law making the act of giving or selling to a Native a misdemeanor punishable by a fine of not less than \$120 nor more than \$500, or imprisonment in the federal jail of not less than 60 days nor more than 250 days, with a fine and imprisonment of greater severity for subsequent convictions. Natives soliciting or attempting to purchase alcoholic beverages were subject to the same sanctions as the seller (Alaska Legislature Ch. 51, SLA 1915). This last law outlived national prohibition and was not repealed until 1953 when federal law prohibiting drinking by American Indians passed from the scene.

Enforcement in the Early Twentieth Century

As the above statute indicates, vigorous enforcement of liquor laws occurred only against Natives and those whites who sold it to Natives. At the height of the gold rush, for example, only 22 of 100 saloons in operation in Nome had paid the \$1,500 license fee (Wheeler, 1977:148).

However, enthusiasm for stamping out liquor trade among the Natives continued unabated. Both a 1905 grand jury and the 1907 governor's report recommended making giving or selling liquor to Natives a felony (Governor's Report, 1905:99). The 1905 grand jury report from Nome also requested that businessmen of Nome be requested not to give Natives any articles of food or clothing or in any way encourage them to become beggars and vagrants (Governor's Report, 1905:99).

Some measures should be secured to prohibit native families from living in Nome, and the government should build small comfortable cabins at the larger villages and such places . . . and offer each native family a little home as an inducement to move away from this camp and other undesirable localities where they can not obtain liquor and become demoralized (Report of the Grand Jury, Second Judicial District, District of Alaska, on conditions in the district, Appendix K.)

Said the 1907 report:

The worst enemy of the native is the whiskey peddler, and not withstanding the efforts of the officers of the law to prevent this whiskey traffic, it has increased with the Indians' earning capacity. It seems therefore desirable that the sale of whiskey to the Indians should be made a felony, punishable by imprisonment in the penitentiary, and that a small appropriation should be made to secure the services of one or more men to hunt down this class of lawbreakers and bring them to punishment (Governor's Report, 1907:12).

Congress responded immediately with a \$6,000 appropriation to employ special agents to enforce the liquor laws against Natives

(Governor's Report, 1908:15), and in 1909 passed the felony statute so long desired (Governor's Report, 1909:10).

Another appropriation of \$12,000 allowed the special agents to obtain indictments against 20 white whiskey peddlers in the First Judicial District (Governor's Report, 1911:19-20).

Special agents for the suppression of liquor among the Natives appointed by the governor now joined appointed Native police in each judicial district. Their work would continue and be reported upon until 1933. It was hampered as was the work of U. S. marshalls by distances and lack of funds and equipment.

In 1914 the governor reported on the liquor situation and the role of law enforcement:

The natives of Alaska, like the aboriginal people of nearly every country of the world, are not exempt from the thirst for intoxicating liquors, and are, therefore, easily the prey of unprincipled white men who are found in nearly every community and who are the means by which the natives are enabled to obtain the vilest kind of whiskey. In more remote villages the natives at times manufacture a kind of beer brewed from yeast cakes, and other ingredients, of which they partake until it has the desired effect. To their credit be it said that many of the educated and more intelligent natives are doing all within their power, by example and precept, to show their brothers that the path of sobriety is much more to be desired than the devious way of drunkenness and debauchery.

Operations for the suppression of the liquor traffic among the Indians were continued throughout the year under the appropriation made by the Congress for this work, the amount available being \$12,000. The work was carried on in the first, third, and fourth judicial divisions, three white special employees and one native police officer being regularly employed, and two temporary assistants being employed for short periods. The reports of the special employees show a total of 63 cases instituted. This number, of course, does not include cases instituted by other officers, such as deputy United States marshalls, of which there were a considerable number. Of the cases instituted by the special employees 13 were against natives for being drunk and disorderly, fines being

imposed in amounts ranging from \$30 to \$100. Fifty other persons were proceeded against, and of these 5 were not apprehended, having evaded arrest by leaving the country; 8 were released upon preliminary hearings before United States commissioners or upon investigation by a grand jury; 20 were either convicted or pleaded guilty, of whom 4 were fined; 13 were given jail sentences, and 3 were sentenced to the penitentiary; while 17 were awaiting action by the grand jury or trial in the district courts at the end of the fiscal year. In this connection it may be stated that while good work has been accomplished in the suppression of the liquor traffic, the activities of the special employees are more far-reaching in their effects than appear on the surface. Their presence and work in the different judicial divisions where they are employed have a deterrent effect upon the operations of the worthless white "bootlegger" and upon the Indian who craves the liquor which the bootlegger furnishes. Therefore these special officers, it may be justly claimed, prevent much illicit selling of liquors and the consequent debauchery which attends it. The special employees working under the direction of this office have a large area to cover, much of it by water, where transportation facilities are usually inadequate. This is especially true of the interior--in the Yukon, Tanana, and other valleys. The need of additional transportation facilities was recognized by a grand jury of the fourth division, sitting in Ruby, on August 22, 1914. The jury after commending the work of the special employee of that division, stated that he was "handicapped in the matter of transportation, as on occasion cases have been reported to him from a distance up or down the river, and he had to wait many days for a steamboat"; and the jury recommended "that an independent means of transportation be furnished him, such as a gasoline boat in the open season and a fast dog team, to consist of not less than seven dogs, for the closed season." These recommendations I strongly indorse(sic).

Upon the recommendation of this office the Congress has increased the appropriation for this work for the fiscal year 1915 to \$15,000, which will materially aid in the effective enforcement of the law. A special employee has been appointed for the second judicial division, where hitherto none was stationed because of the insufficiency of the appropriation, but where the services of such officer were urgently needed (Annual Report of Governor, 1914:36-37).

Which Indians?

The Treaty of Cession between Russia and the United States and the Organic Acts drew a distinction between civilized and uncivilized Natives in Alaska (Cohen, 1942:403).

Civilized Natives were, according to Judge Wickersham, either those persons immediately affected by the benefits of naturalization under the treaty or those members of "uncivilized" tribes who had voluntarily taken up residence separate from any tribe of Indians and who had adopted the habits of civilized life (In re Minook, 2 Alaska 200, 1904).

Civilized Natives could become citizens and attend schools with whites. Uncivilized could not. The territorial government continued to draw this distinction by providing in 1915 that Natives who had abandoned tribal customs and adopted the culture of civilization could apply for citizenship (Territorial Act of April 27, 1915, C 24, Laws of Alaska, 1915, p. 52, repealed by C 34, Laws of Alaska, 1933, p. 73).

Would such a distinction be made between civilized and uncivilized Natives when drinking was applied?

A man was sentenced in Juneau for selling liquor to an Indian under the 1909 act. He appealed arguing that Natives of Alaska who lead a civilized life should be able to buy liquor. The territorial governor argued in his 1911 report that should his view be upheld, a new liquor law should be drafted to include all Natives again (Annual Report of the Governor of Alaska, 1911:20).

"The establishment of the right of Alaska Indians to purchase liquor and of white men to sell it to them means the utter ruin and ultimate destruction of a superior native race" (Governor's

Report, id.).

Thus, the position of territorial law made no distinction between deacculturated (or civilized) Natives and their tribal brothers and sisters.

In 1913, the governor argued for expanded enforcement of liquor controls:

While the present success achieved in the third and fourth judicial divisions has not been as great as could be desired, substantial progress has been made in discouraging the illicit sale of liquors and the enforcement of the law by the presence in these districts of the Government agents. As a result of their work saloons which were notorious for furnishing liquor to "bootleggers" and natives have been denied licenses.

Conditions on the lower Yukon River, in the fourth judicial division, are not as satisfactory as could be desired, due to the great distances that the special agents must cover and the delays incident to transportation. A power launch should be provided for the patrolling of the Yukon River between Eagle and Holy Cross, so that the special agent could move swiftly and without his departure from one place to another becoming known and the information transmitted to other law violators. These special agents should also be given the authority to search cabins, houses, boats, etc., for contraband liquor without having to secure a search warrant and warrants for arrest for those suspected of giving or selling liquor to natives. A special agent should be employed in the second judicial division, with headquarters at Nome, where during the open season of navigation natives go in large numbers from outlying points for the purpose of selling their furs and wares, and where it is comparatively an easy matter for them to obtain liquor, for which they spend the money which should be used to buy food and clothing. The special agents for the suppression of the liquor traffic among natives are under the supervision of this office (Report of the Governor, 1913:25).

Reports from the Field

Though this study is dependent upon appropriation-seeking higher officials who might have been tempted to "play" to the temperance movement, there are scattered among the early records reports from the field.

Two of these are relevant to our study since they dwell upon the situation of Eskimo families of the Yukon-Kuskokwim Delta, persons whose descendants would later relate to Bethel and its liquor supply and law enforcement.

The first is drawn from Walter E. Cochran, who directed a school and reindeer station in Mountain Village as a member of Sheldon Jackson's Bureau of Education from 1909 to 1915. He reported to the governor that the 5,000 Eskimos in the region had at that time met few white men other than Bureau of Education employees and Roman Catholic priests. Thus, he reported, their situation was far different from Eskimos to the North who had been exposed to substantial contact with foreigners (Report of the Governor, 1915:31).

His letter reveals how liquor control was tied to plans implemented by teacher-missionaries to settle Eskimos into villages and to introduce village councils as forms of self-government:

[The Eskimos] are kind, peaceable, can be taught to be industrious, honest, and reliable members of the native population of the north, and no difficulty need be encountered in bringing about this desirable result if they are understood.

To accomplish this, two courses of immediate procedure are necessary: First, the complete abolition of the making of intoxicating drinks by native traders and others, and, second, the consolidation of the scattered villages of underground igloos into central community

centers at desirable and sanitary locations, where sanitary cabins may replace the damp, cold, and filthy underground igloo. The conditions that now exist in these igloos no human being can describe--one can only know after he visits them.

The first result can, in my judgment, be accomplished only in one way, and that is by placing a special agent for the suppression of the liquor traffic in the delta. The special officer for the suppression of the liquor traffic in the second judicial division I have met and believe him to be a sincere officer, but unless an agent can devote his entire time to this vast region no permanent results will follow; and if a man who understands these natives can spend one winter or rather one year in this delta, he can stop this traffic that is destroying this race, and can do it without prosecuting except in very rare instances. Furthermore, by bringing them together in larger communities and establishing mild forms of self-government among them, it will be easy after this is accomplished to reach them with any influence necessary for the complete eradication of this degrading and destructive practice. I have talked to large assemblages of these natives, and I am not guessing at what may be done, but am certain that the plans suggested can be carried out, to the salvation of the worthwhile people.

The second course for their permanent betterment is industrial education. This can be accomplished easily when the above-mentioned communities are established and the liquor problem is solved, and assuredly not before. . . .

The Bureau of Education has been unable to reach very far into this tundra, on account of limited appropriations, but where they have gone the results are manifest and serve to illustrate my contention that where a chance is given them they will do their part.

The Jesuit fathers in the Akularak region have done much good and saved many lives of children, but their work is necessarily local, and their mission is absolutely unable to cope with the liquor situation.

The chief thing needed in the beginning is legally constituted authority, combined with patience, common sense, and a knowledge of the people, a man of backbone yet who has sympathy and honest motives, and the results of the work of such a man will be evident within a few months after the beginning of this service.

The idea of consolidating the scattered villages, industrial training, and the establishment of new herds of reindeer is undoubtedly the solution of the problem (Cochran letter in Annual Report of Governor, 1915:31-32).

An Agent Reports

The Governor continued:

Thomas Gaffney, special agent for the suppression of liquor traffic among the Indians, for the second judicial division, who, under instructions from this office, investigated conditions on the lower Yukon and adjacent coastal plains, reported as follows:

The Yukon delta is composed of numbers of sloughs and watercourses, rendering it impossible for anyone unacquainted with the topography of the country to discover any particular place. The immensity of the vast stretch of this low-lying land, barely above ordinary high water, has to be seen in order to form any idea of the territory embodied therein. The natives, with which this report has to deal, live on the south branch of the Yukon, known locally by the name of the Kusilvak River, which name is no doubt derived from the lofty mountain situated on the same side of the river and about 50 miles inland. With a good light-draft launch I reached the headquarters of the Akoulavak River. The river is about 50 miles from the open sea, and along this stretch I visited 10 villages with a population of 350 persons. At the head of the Akoulavak I met the missionary fathers from St. Marys Mission, situated about 50 miles inland. The Akoulavak is one of the many rivers or sloughs which break from the main river and empty into the sea, some as far south as Hooper Bay. The natives I met at the various fishing villages live inland on these sloughs in the wintertime, and quite a few of them around the mission, where the United States Bureau of Education maintains a school, employing one of the sisters for teaching the natives, the Jesuit father told me, but owing to the primitive conditions existing here the progress is necessarily slow. They condemned severely the practice prevailing among the natives of making "cold whisky," and were most optimistic with regard to the benefits that would accrue from the presence of a Government agent among them. They promised to inform the natives in the various places they would visit of the nature of my mission, and assured me they felt thankful that some steps were being taken to stop this most pernicious practice. There are, I should

judge, about 1,000 people in this section between this bank of the river and the Kuskokwim delta. They are the most primitive in their ways and their mode of living of any natives I have met in this division. Their habits of life are very uncleanly and progress along sanitary and hygienic lines is very slow. This is distinctly noticeable among the elder natives, the younger ones showing a very good tendency toward improvement. Owing to the nomadic life of these natives development is bound to be slower than in other sections. Their slight intercourse with civilization also accentuates this condition. Not many white men visit this section, except the trader, as its economic wealth lies in its furs principally, if not entirely. The value of the furs gathered in this section I should estimate conservatively at from \$60,000 to \$75,000 yearly. There are skins of the hair seal, and oogaruk and seal oil are other products of the coastal plain and serve to provide clothing, food, and fuel. The scarcity of wood in the interior and the natural indolence of the natives in gathering wood makes the seal oil the only source of fuel and light in the wintertime.

But it is in connection with the dealings of the traders and the natives that my report specifically relates, as it is through the traders and their subagents that the use of "cold whisky" or "sourdough" is carefully cultivated and encouraged. For years these primitive people knew no law or code of morals except such as was propounded to them by the white trader, many of whom they looked upon with reverential awe. It is needless to say the code of morals inculcated did not serve to advance the interests of the natives either morally or materially. The Eskimos are proverbially shrewd in bartering or trading and it is in order to set aside their natural shrewdness and caution that some traders (not all of them I must say) have had to resort to the most depraved and criminal methods, namely, the debauching of the natives by the vilest kinds of whisky or extracts, composed of 50 per cent of alcohol, until they became easy victims of the trader's cupidity. Through the vigilant efforts of the superintendent of native schools of this district, assisted by the school-teachers and the missionaries, the traffic in straight whisky and extracts has been greatly minimized, and, I may add, that through their endeavors principally the sale

of extracts has been entirely abandoned. But a worse and far more injurious method has been introduced which reduces the native to the uttermost depths of poverty and human degradation. This is the "cold whisky" or "sourdough" beverage, made from flour and sugar fermented, which, instead of being used for human sustenance, is used for this vile purpose, leaving the native totally impoverished. The destitution from this source alone last winter in this region was something dreadful.

Mr. Cochran, the Government teacher at Mountain Village, assured me last winter that he had been told by natives from the Kusilvak that destitution was widespread from this cause. And knowing Mr. Cochran's good work among the natives, and his familiarity with them, I have no doubt this statement is correct. It was toward the abolition of this evil that I concentrated my efforts during my short trip in the month of June. This beverage, drunk in a half-fermented state, produces stupefaction and sickness of the stomach simply indescribable. Not only does it leave the victim a prey to the unscrupulousness of the trader, but it severely undermines the health of male and female. The most wanton distribution of this stuff is done by subtraders employed by the big traders, who are all natives recruited from their people on account of certain merits they possess, such as cold, deliberate cunning and physical prowess, both of which traits are brought into requisition to separate their credulous and timid people from their worldly goods. That some of them are inveterate scoundrels goes without saying. The Hon. Frank Waskey, first Delegate to Congress from Alaska, and now United States commissioner at Marshall, ran across one of these fellows last spring while on a trip through this country, and found on his sled a small barrel of this "cold whisky" which he was using for trading purposes. He dumped the stuff out after taking a sample bottle, which he forwarded to the United States district attorney at Nome for examination.

. . .

Before concluding, I beg to state that too much credit can not be given to the school teachers and the missionaries for the good work they have done and are doing among the natives in the various sections I have visited this past years (Gaffney letter, Annual Report of the Governor, 1915:32-33).

The enthusiasm of teachers and missionaries for suppression of drinking as a prerequisite for "civilizing" the Natives drew them into active efforts at law enforcement. Along with requests for additional law enforcement to protect Natives from whites and to protect Natives from themselves, Bureau of Education Director Jackson had petitioned with success for his teachers to be named as marshalls (Report of the Commissioner of the Bureau of Education, 1908).

By the Act of March 3, 1909, (Section 318 C.L.A.) the Attorney General was empowered to appoint, in his discretion, persons employed in the Alaska school service, under the Bureau of Education, who may be designated by the Secretary of the Interior as special peace officers with authority to arrest, on warrant duly issued, natives of Alaska charged with certain violations of law, or white men charged with violation of law to the detriment of any native of Alaska, and provided further that such peace officers should also have authority to make such arrests without warrant for a crime committed or attempted in his presence, or when the person arrested has committed a felony, although not in his presence, or when a felony has in fact been committed and he has reasonable cause for believing the person arrested to have committed it. That law was passed for the special protection of the Indians and enforcement of the laws among them (Unpublished memorandum for Governor Parks on Power of Officer Appointed for Suppression of the Liquor Traffic Among Indians in Alaska, 1925:2).

Teachers also moved to encourage their villages to establish village councils as vehicles for order-keeping. These councils were first used as vehicles for enforcing rules related to school attendance (e.g., no late night dancing in the Kosga), as well as church edicts against sin reflected in village rules which existed into the mid-twentieth century (Milan, 1964:59). Eskimos turned councils to more flexible institutionalized forms of their own system of law ways (Hippler and Conn, 1973).

From the perspective of an Eskimo in the delta, it must

have appeared that Western government had no other purpose than suppression of alcohol.

Reports received in 1916 indicated some improvement, but also apparent integration of hootch into traditional ceremonies. White officialdom desired an end to both ceremonies and hootch:

[T]he work of the special agent in the country adjoining the lower Yukon having been of great benefit to the natives in breaking up the "hootch" makers. Mr. Koen adds:

One arrest and conviction in this precinct has had a salutary effect on them, as the news of the conviction was carried the whole length of the river, and it was the means of making a lot of natives who did nothing else than brew this deadly liquor find new residences. A special agent should be kept on the lower river at all times and every assistance given him in making arrests and in securing convictions, as this is the only way to break up the practice. This lower river country is an asylum for medicine men and "hootch" peddlers, and a law should be enacted for the prosecution of the medicine men, who levy tribute on the other natives through fear, but who can not be reached under existing law. A jail sentence is torture to a native, as he can not stand confinement.

Potlatching, or the making of gifts by the more opulent natives to their less fortunate brothers, but who invariably expected an ample return of their benefactions, once prevalent, is rapidly passing, although the potlatch is still found in some of the less civilized communities. It usually takes place at the close of the fishing season or the beginning of winter, and it is at this time that the natives gather at a central point and spend many days in feasting, dancing, giving and receiving gifts, the hilarity of the event being greatly accentuated if a supply of whisky or "hootch" can be had. It is safe to predict that a few more years will witness the final passing of the potlatch (Report of United States Commissioner Charles J. Koen, St. Michael, in Annual Report of the Governor, 1916:29).

As the foregoing reports from the field suggest, alcohol control among the Natives served many purposes. It justified further efforts at civilizing Natives through the work of missionaries and teachers. It explained the failures of programs already established.

Native groups had to be contacted, their numbers drawn into villages and their "fallen" culture brought up to the standards of temperance not often found in the North country.

Governor Strong's pop sociological description of the alcohol problem signaled the coming of a new push for temperance throughout the territory:

It seems that the aboriginal races of most countries readily acquire a thirst for intoxicating liquors, probably not attained until after the advent of the white man. Whatever may be the case among the native peoples elsewhere it is recorded that the Alaska natives were a sober people until after the advent of the Russians, from whom they learned the use of intoxicants, and with a keenness of imitation, having acquired the taste, when they could not secure the white man's liquor set about themselves to brew a liquor that would produce the desired state of intoxication. There are different kinds of these native brews, but alike in one result--that all produce drunkenness and debauchery. In recent years there has been a marked decrease in the making of these liquors, called in the vernacular "hootch," "sourdough," or "cold" whisky, "quass" or native beer. All are deadly and demoralizing in their action upon the native, physically and mentally. The native, as a rule, only resorts to the manufacture of this poison when he is unable to secure the whisky or beer of commerce, the chief offenders being the denizens of remote villages of the interior, western and northwestern Alaska.

Notwithstanding the continuous activity of the special agents employed by the Government under the direction of the department and this office for the suppression of the liquor traffic among the natives there are still to be found worthless white men and even some proprietors of saloons who are always ready to take the native's money in exchange for bad whisky. While these violations of the law are found in various towns, the most frequent infractions occur in the remoter sections; but in all places a marked decrease in the

consumption of liquor by natives is noted. This is not wholly due to the operations of the preventive agents, although their work is efficient, but another cause is found in the fact that as education spreads among the Indian tribes they are enabled to see that the use of intoxicating liquors is the bane of their people and some of the strongest advocates of temperance and sobriety are found among them and the example set by those earnest men is having a most salutary effect (Report Governor of Alaska, 1916:28).

Strong presented a complete and nearly unique picture of law enforcement by special officers as it existed in 1916 (Report of the Governor, 1916:63-66). Nearly one-half of the 84 cases occurred in more settled areas of Southeastern Alaska (the First Judicial Division). Cases against non-Natives generated fewer convictions than cases against Natives (Appendix 1).

All of this activity was not without its repercussions. State Senator Sutherland explained the role of liquor suppression agents to congress during hearing on the bone-dry law (U.S. Congress, House Committee on the Territories, Prohibition of Liquors in Territory of Alaska, 1917:32):

SENATOR SUTHERLAND: We have in Alaska a number of men whose duty it is to suppress the sale of liquor to Indians. They thus take upon themselves the power of detectives. They go anywhere to find violations of the law. They go to extremes in many cases in working among the Indians, and the Indians seem to feel that they are meddling with them. Nevertheless, in a great many cases they accomplish what they are supposed to accomplish. They find out these violations of law and get hold of those who are selling the liquor to the Indians.

Now. I would have the power which is extended to them extended also to the game wardens and other officials.

MR. CURRY. Does that mean the immigration officials?

SENATOR SUTHERLAND. Yes.

MR. JOHNSON. Would it go to the governor of the Territory?

SENATOR SUTHERLAND. Yes; I think it would even include the governor of the Territory.

Bone-Dry in Alaska

Territorial Governor John A. Strong, a Wilson appointee in 1913 and newspaper owner, encouraged his Ruby editor Chester Snow (soon to be known as the father of the Bone-Dry Law) to introduce a joint resolution to the territorial legislature in March 1915 that provided for a vote on whether white voters desired to have a "wet" or "dry" territory. Snow later agreed to allow territorial blacks to vote as well; uncivilized Natives could not vote (Smith, 1973:174).

Governor Snow signed the bill in April and passed the pen to the Alaskan representative of the Womens Christian Temperance Union (Smith, 1973:Id.). The following month the W.C.T.U. held its first territorial convention.

The temperance supporters were well organized. Yet, on the side of the saloons and brewers was the argument that five of sixteen incorporated towns were dependent entirely on revenues generated from licences (Smith, 1973:179).

Heavy-handed attempts by liquor interests to turn editorial and popular opinion against prohibition had the reverse effect of building sentiment for it (Smith, 1973:179).

By a 9,052 to 4,815 vote, proportionately uniform in all parts of the state, white Alaskans voted in support of prohibition (Smith, 1973:178).² Ex-judge and now Delegate Wickersham had a stringent bill introduced into the U.S. Congress, one that prohibited the manufacture and sale of any alcohol in the territory. A rider to the bill transferred the "Alaska Fund" from Congress to the legislature so that it could be spent on schools and other services in incorporated towns (Smith, 1973:178).

Unincorporated towns included all native villages. These looked to the Bureau of Education for federal aid for education of the Natives. Territorial law enforcement in the bush where Natives lived was limited exclusively to special employees for the suppression of liquor traffic among the Natives appointed by the governor (Spicer, 1927:67) (Annual Report of Governor, 1918:58).

That Bone-Dry was directed at Natives and "their" problem seems apparent from reports in the years that followed

BONE-DRY ALASKA.

During the fiscal year there were 91 arrests made by the special officers for the suppression of liquor traffic among the Indians for violations of the liquor laws--78 convictions and 13 acquittals. Fines amounting to \$8,410 were collected, and jail sentences aggregating 1,168 days were imposed. Other arrests were made by the marshals of the several judicial divisions and convictions obtained which are not included in the above.

Under an annual appropriation by the Government of \$15,000, there are four special officers for the suppression of the liquor traffic among the Indians employed--one in each of the judicial divisions. To properly enforce prohibition this appropriation is absolutely inadequate; the distances are too great, the expense of travel too heavy. Very little real whisky is now coming into the country, but the resourceful bootlegger is distilling his own "hootch" in neat stills which can be set up on a kitchen stove. Some of the stills captured are marvels of ingenuity. The product of these illicit stills (commonly known as "white mule," on account of its color and powerful "kick") is vile in the extreme and most injurious to health. Another source of drunkenness is found in sweet cider to which has been added raisins or other agents which cause fermentation. There is no prohibition of the import or sale of sweet cider, but cider in a very short time can be made into a powerful intoxicant. If prohibition is to be thoroughly enforced there must be more officers for its enforcement and a fund to be expended in detective work.

On the whole the Alaska "bone-dry" law has been very successful and its beneficial results are seen everywhere, particularly in the homes. Families formerly living in practical destitution are now well cared for and happy. I should like to see the law rigidly enforced, with, perhaps, an amendment which will allow the use of grain alcohol for medicinal purposes. Doctors advise me that had alcohol been available during the epidemics of influenza a great many lives could have been saved (Annual Report of Governor, 1919:64-65).

However, by 1933 the Bone-Dry Law was viewed by Alaskans as a curse and not a blessing. In his report to the Secretary of the Interior, John Troy urged:

Congress should speedily pass Delegate Dimond's bill for the repeal of the "Alaska Bone Dry Law." Public opinion in Alaska is practically unanimously in favor of repeal. Twice the Territorial Legislature has attempted to repeal the Alaska Bone Dry Law, but local court decision held that the Territorial Legislature had no authority to legislate on the subject. To make the situation clear and definite, there should be congressional action (Alaska Bone Dry Repeal, Ch. 2, S.L. of Alaska, 1933). (Alaska Territorial Governor's Report, 1933:35).

Alaskans missed their chance, however, for Bone-Dry in Alaska was followed by national prohibition. When the Volstead Act was repealed in 1932, Delegate Wickersham had changed his tune:

It's about time. Alaskans have known for two decades that their prohibition laws were a failure. Dry laws never did work in Alaska and I don't think they ever will. It's high time we repealed them," he repeated, giving the floor a hearty thump with his cane.

Continuing, he said: "They tell me I can expect the saloons back any time now in Alaska, once the repeal movement gets underway. But what of it? Better have saloons than smuggling, bootlegging, and other evils of an unpopular, unenforced law" (quote in Atwood, 1979:369).

As Bone-Dry failed for white Alaskans so the attempt to suppress liquor among the Natives also failed.

The reasons are many. When Carl Lomen, head of the controversial reindeer corporation complained to Governor Parks of "the seeming freedom that some few whites in the [Nome] Division have of making and dispensing liquor," (letter to Parks, August 24, 1929), Parks told him that lack of cooperation by the Nome marshall forced him to close that office. Parks had no control over the marshall's office. In addition, he related that when a prohibition officer was sent to Nome a few years before, he had been arrested by local

authorities. Further, when Parks had sent in a liquor suppression officer from another division most of the cases he had made had been dismissed (unpublished letter from Governor Parks to Carl Lomen, September 19, 1929).

Local authorities acting in league with local business interests were capable of "rewriting" the law on liquor sales to Natives.

A second reason for failure was the calibre of suppression officers. One officer was accused by citizens of demanding kick-backs from bootleggers. His arrest record was indeed very low in comparison with other officers (Appendix 2).

Two reports from officer H.E. Seneff in 1930 and 1933 (Appendices 3 and 4) offer more insight. Moonshine whiskey was manufactured by whites for sale to Natives and by Natives in many places.

The Indian like the white man throughout the Fourth Division has become adept in the ways and means of screening himself from the eyes of the law, hiding his illicit distillery in secretive places, where the officer would hardly be expected to visit or look for distilleries. The whiskey once made, is cached in secluded spots and not drawn on, until wanted for sale or drunken parties. These places being off of the regular route of travel and out of sight and ear shot, the officer in search and travel on hurriedly trip; will most likely overlook them (letter from H.E. Seneff to Governor George Parks, July 1, 1930, p. 1).

Then, as now, in rural Alaska the law came to the village and then departed.

Nonetheless, when Governor Troy received word that the officers were to be taken from him and phased out, he was outraged. In a telegram to Assistant Secretary Burlew he emphasized that the agents gathered general information and collected territorial taxes (telegram from John Troy to Burlew, May 25, 1933).

In a letter that followed he described their more general use and backgrounds of the agents:

The purpose of this service has always been to keep in intimate touch with native affairs throughout the Territory, having in mind particularly the suppression of liquor traffic among the natives and the manufacture and use of liquor by the natives in the several divisions. This requires much local knowledge of the Territory by the agent, who becomes acquainted with each village and its occupants and studies their activities and living conditions throughout the year. Each village is a separate study, and these agents have been chosen for their intimate knowledge of Indian affairs. Daily reports are made by them to the Governor of Alaska, following general instructions by the Governor to investigate and report on certain sections at times best adapted to the seasonal traffic in each locality. A great deal of investigation is involved.

In addition to suppressing the liquor traffic, these agents are called upon by the Governor from time to time to report upon many special conditions, such as indigency; epidemics, which are not uncommon; sources and amount of food supplies; probable earning power per capita of the various villages; disposition of their money earned; and in general to aid the Governor's office at any time and in any manner required. Much of their investigative work is of a confidential nature, often relating to the white population as well as native, and is of great value to this office in administering the affairs of the Territory.

Inasmuch as these men work in the various sections of the Territory in which they are best informed and inasmuch as each division of the Territory has climatic and geographical peculiarities differing greatly from that of any other, it is my opinion that it will be extremely difficult to direct the activities of these men from Washington, D.C., as is required by the order in question. Most of the time the agents in the Third

and Fourth Divisions are out of contact because of lack of telegraphic communication and the uncertainties of long distance mail service. Because of this, it is very doubtful if the efficiency and value of this service can be maintained if the Order continues in effect.

At the present time Phil Herriman, Special Agent in the Third Division, is in the Bristol Bay area, which is the fishing center of western Alaska, and as the fishing industry involves the employment of some ten or fifteen thousand men who are transported from the states to carry on their work during the summer months only, this visit is highly important. It is doubtful if Mr. Herriman can be advised of this change within the next twenty-five or thirty days, and as his summer's work has been carefully planned and laid out to cover the possible transportation of liquor into that area and its disposition to the natives, we think no change should be attempted at this time in his status.

In the case of H.E. Seneff, Special Agent for the Fourth Division, who also covers the Second Division, he is now at Nenana with instructions to proceed down the Yukon River from Circle in a small boat to Russian Mission, there to make the portage to the Kuskokwim River and then work all of the villages in that valley and down as far as Good News Bay, then back into the Second Division on the Seward Peninsula. Because of the climatic conditions and the river route transportation, including the portages between the rivers, this plan should be carried through or the benefit of the season's work will be lost.

Mr. J.W. Wilson, Agent in the First Division, operates under the following plan: he owns the boat he uses and is required to live thereon, the Government paying expenses of his per diem, gas and oil while away from headquarters at Juneau. As all of the villages in southeastern Alaska are reached by boat, his work consists of almost continual travelling between these various Indian settlements, and it is not uncommon for him to be out of communication for ten days or two weeks at a time. During these expeditions he makes reports on all conditions involving the natives, many of which are peculiar to the general economic welfare of this territory.

Wm. Jackson, Special Agent at Yakutat, is an Alaskan Indian who is the sole remnant of the old Territorial Indian Police, and he has been retained at Yakutat as Liquor Suppression Officer for many years at a salary of \$20 per month. Jackson is a native of known integrity

and rating among his people and is the only peace officer stationed in Yakutat. While a Commissioner's Office is maintained, there is no marshal and the town does not have any local police facilities. The work done by Mr. Jackson is of value to the native people in his community. His knowledge of the English language is very limited and it is doubtful if orders transmitted from Washington could be understood or executed by him.

In addition to the above duties, these men are utilized in the collection of taxes due to the Territory, and they are paid for their collections on a percentage basis by the Territory. Of course, this amplifies their federal salaries and brings their total earned to an amount sufficient to employ agents of much higher type, thereby increasing the efficiency of their suppression of the liquor traffic work, as well as to increase the territorial revenues.

The enormous unsettled expanses of Alaska contribute to long distances between villages and remote sections, from which we can obtain practically no reports except through these agents. This is also an important factor in their work and it is doubtful if any other branch of the federal or territorial service can furnish this valuable information to the Governor's office (letter to Harold L. Ickes, Secretary of the Interior, May 27, 1933b).

In view of movements then emerging to place Natives upon reservations in the 1930s (a move rejected by Native groups [Crain, 1957:289]) and to assert more directly the influence of the Bureau of Indian Affairs onto Native affairs, the governor may have suspected that his single team of informants were being removed from his control in order to weaken control of Natives by the already weak territorial government.

Since one finds little, if any, socioeconomic information in available reports by agents, the governor's pleas may have been overblown. Taken at face value, however, his letter serves as an admission that the single form of ongoing contact which the rural Native person experienced with territorial government was the liquor suppression officer. Such was the interest of the territory in his situation.

Beyond Prohibition

Although prohibition gave way in the territory with the repeal of the Volstead Act and replacement of earlier licensing schemes by a centralized control system, prohibition remained a fixture of rural Alaska legal process. (Ring, 1979).

In the mid-1930s, the Indian Reorganization Act was extended to Alaskan villages. It provided a structure of tribal government for Native villages, a structure which included further³ legitimization of the fining and jailing authority of village councils (Case, 1978:130).

Such activity by Alaskan city councils was made illegal when at statehood, the Alaska Constitution provided for a centralized judicial system (Fischer, 1975:113). Nonetheless, village councils in towns without judicial officers continued to act as judicial

authorities to the present day (Angell, 1979).

The Law and Order Division of the Bureau of Indian Affairs encouraged Native villages to pass and enforce ordinances which banned use and possession of liquor (interview with Roy Peratrovich, 1974). Such ordinances reflected federal and territorial law of the era. They also anticipated a plan to designate Indian reservations for Alaska Natives, a plan that was later aborted.

What is relevant is that villages continued to perceive themselves as dry and to enforce ordinances against possession or use of alcoholic beverages with the explicit or implicit blessing of federal Indian, territorial and later state officials long after the legal basis for doing so was removed from the statute books. (Conn, 1980)

The Military--The New Sourdoughs

The 1940s and 1950s, World War II and the Cold War which followed brought new waves of contacts between outlying Eskimo villages and the military. Commission of young men to the Eskimo guard and establishment of bases at the doorsteps of villages had major impacts on the social life and behavior of young men and women.

Typical of such impact was the situation of Gambell, a St. Lawrence Island Eskimo village a mere 40 miles from the Siberian coast. Anthropologist Charles Hughes chronicled the situation of this village in the early 1950s in An Eskimo Village in the Modern World (1960).

One of the recurring problems to come in with the soldiers was that of liquor. For some forty years, at least, one of the most strongly supported village laws had been a prohibition against drinking by any native and even against bringing alcoholic beverages to the island. Much of the basis for this legal norm is said to come from bitter memories of the Great Starvation in 1878. But with soldiers has come liquor, and, as a consequence, progressively increasing breeches in the village liquor law, especially by some of the young people. The village council has had to step into the situation more than once to impose fines on or otherwise punish village members for procuring beer and selling it to young people, both boys and girls. Moreover, the example of drunkenness set by soldiers is not easily forgotten as an illustration of one aspect of the white man's way of life:

Those first air force boys were welcomed to the villagers around here. Everytime when they done wrong around here, when they come to the village pretty drunk, they restricted them for one week.

And a more recent example of the same behavior:

They do not have trouble at all, when they first getting down here. But last summer when those drunk G.I.'s came down to the village late at night, that is why they made their curfew very short.

Throughout the years that a military post was near the village this issue arose periodically. Characteristically, after each outbreak the council tightened the curfew and severely restricted the hours during which the military were allowed in the village for visiting and buying ivory or skin sewing. In some cases they were banned altogether for a few days. Although sometimes it was unequivocally stated by the council that the ban might be permanent or at least in effect for a long time, it was soon quietly broken and disappeared after a few days--a happening which the villagers themselves came to predict. The pressures from wanting ivory sales and other benefits were apparently too much.

In one case of a broken liquor law which happened during the summer of 1955, the council's principal move in handling the violation was to turn it over to the U.S. marshal on the mainland. This action cogently brought out a tendency that could be seen in many of its decisions during the year--that of leaning on an outside authority for guidance and direction in matters over which it nominally has control (Hughes, 1960:300-301).

In the Towns

Population growth among Natives flowing from eradication of serious epidemics of measles and influenza in the 1920s and 1930s as well as high rates of infant mortality and tuberculosis throughout the first half of the twentieth century, were coupled with economic opportunities in the "hub" towns of Nome, Barrow and Bethel related to the establishment of federal bureaucracies in these places. This resulted in increased migration into these places and the villages near towns. (I.S.E.G.R., 1973).

In the towns Natives found liquor more readily available, but also harsh justice meted out by Native and non-Native commissioners and U.S. marshalls.

Joseph Senungetuk, renowned Eskimo artist, writes of his family's migration to Nome from Wales in the early 1950s in his autobiography, Give or Take a Century (1971). He describes the racism Natives confronted including segregated movie halls and job discrimination (Senungetuk, 1971:176), all of which was theoretically outlawed in the mid-1940s (Report of the Governor, 1945:2).

The tug-of-war between church-lead prohibitionist elements and the bar life of Front Street left no middle ground (Senungetuk, 1971:111). Senungetuk observes the embarrassment with which Natives persons read the names of friends and neighbors listed among those arrested for being drunk in public or disorderly. The focus of drink-related statutes on Natives served to reinforce the stereotype of "drunken Native" among both newly arrived Natives and whites (Senungetuk, 1971:125).

Although records of the late days of the territory are difficult to obtain, it appears that even before the prohibition against sale to Natives was repealed in 1953, sales to Natives were not vigorously prosecuted. However, cases of public drunkenness resulted in jail

sentences as long as six months (U.S. Commissioner, Bethel records). Furthermore, the Bethel marshall maintained a blacklist of known drunkards. Those who sold to persons on the blacklist or who themselves were on the list and drank were prosecuted.

Villages continued to mete out their own justice, supplemented with periodic visits by the U.S. marshall and territorial police who concerned themselves with supporting the council and with arresting persons charged with violent crimes for transport back to towns for justice.

When statehood was obtained, Native Alaskans had been legally granted the right to purchase and consume liquor for six years. However, prohibitionist opinion dominated the villages and towns were marked by vigorous enforcement of laws against drunken behavior, particularly drunken behavior in public by Native people.

Such was the inherited legal tradition of Alaska on the subject of alcohol control in rural Alaska.

Implications for Our Study

This brief review of the legal experience of Alaska Natives with liquor and the law is revealing in several regards.

It appears that there has been no period of white contact in which legal authority by statute and by practice has not concentrated upon alcohol use by Natives. Consistent also has been the social belief conveyed through legal practice that Alaska Natives cannot be expected to "hold their liquor," that liquor use leads to uncivilized conduct requiring special attention not necessary for the non-Native population.

Along with the introduction of liquor has come role models of drunken mayhem, offered to Alaska Natives by the American military, whalers, sourdoughs and other derelicts from white civilization. The contrasting role model has been one of steadfast prohibition offered up by teacher-missionaries and by government personnel (although the conduct of bureaucrats on the frontier included both abstention and alcohol abuse).

Craig McAndrew and Robert B. Edgerton (1969) propose

[A]s an alternative to the disinhibition theory of alcohol's workings, that in the course of socialization persons learn about drunkenness whatever their society presumes to be the case; and that, comporting themselves in consonance with what is thus imparted to them, they become the living confirmations of the society's presumption (McAndrew and Edgerton, 1969:136).

Although they do not explore the role of law as it affected drunken comportment among American Indians, they do explore the historical literature of white observers of Indian society (as we have) in order to test their formulation on the American social belief that "Indians can't hold their liquor."

They conclude that "Indians of this continent took as their exemplars of alcohol's effect on comportment the drunken doings of the very white men who introduced alcohol to them" (McAndrew and Edgerton, 1969:id.).

Alaska Natives' experiences with riotous non-Natives, whose "time out" behavior while drunk was markedly different from their more disciplined behavior while in the military ranks or before the mast must have left an impression upon them.

McAndrew and Edgerton look, in addition, to certain misconceptions which characterize reports of early observers and colored their beliefs about alcohol and its effect on American Indians. Chief among these

was the notion that but for alcohol Indians had no intragroup violence; they were the "noble savages." Another notion was that they had no "time out" behavior, periods when members of their group could "let off steam" without fear of retribution.

Both ideas were erroneous for American Indians generally and for Alaska Natives. Alaska Natives suffered intragroup and intergroup violence before their contact with whites and alcohol according to most ethnographers. Fights over women, for example, were not unknown. Each group had developed a system of law ways both to avoid violence confrontations and to deal with problems when they occurred.

"Time out" behavior, or behavior which would otherwise be unexcused, also existed. McAndrew and Edgerton note that, "[T]he Indian's precontact cultures already contained an ample array of time out ceremonies and supernatural agents (e.g., witchcraft, dreams, spirit possession, etc.) under whose 'influence' a man became less than strictly responsible for his actions" (McAndrew and Edgerton, 1969:148-149).

Such was also the case for Alaska Native groups. Much has been written, for example, about Arctic hysteria among Northern Eskimos (Foulks, 1972). Just as non-Natives honor the state of drunkenness as an excuse (within limits), or at least an explanation for otherwise inappropriate behavior, so Western law repeatedly reacted and continues to react to behavior by Natives while drunk as an excuse or, at least, an explanation for deviant act.

In another paper, the author (Conn, 1977) points to the oft heard separation of the sober person and the drunk person when conduct of Natives is assessed within the social group. Because, for example, Eskimo law ways was a sophisticated system of social

cues, being crazy with drink meant that the normally well-behaved person could have explained or excused behavior which "tuned-in," that is to say, rational persons would not engage in.

White Law and Native Law

Native law ways were if anything more pervasive and more sophisticated than the white law introduced by Native police, liquor agents and others. Native law was interrelated to family groups, status and ongoing relationships. The particular harmful effect of the introduction of liquor and occasional white legal presence preventing its use was that intoxication and white law wiped out opportunities for Native law to develop means to contain drinking behavior.

The message of white man's law was that without its preventive effects, nothing could be done.

Viewing the use of alcohol from a modern perspective, Foulks comments:

Using alcohol rather than assuming some other symptom such as depression is often seen in individuals whose culture has conflicting values regarding the use and place of alcohol (Chafetz, 1969:1013). Many natives in Alaska overtly condemn the use of alcohol and at the same time demonstrate an unusual fascination and pre-occupation whenever the topic of alcohol is brought up in conversation. Thus, when one drinks, one does so with conflict and guilt. Reportedly such circumstances enhance the potential of the individuals turning to this troubled psychophysical pattern in times of stress or malaise. This disorder represents the commonest psychiatric problem now experienced by the Alaska native (Foulks, 1972:126).

The conflict and guilt which Foulks describes may have its basis in the disempowering effect of Western alcohol control law over a period of more than 100 years and in its socializing effect.

Alaska Natives and other American Indians were taught by often well-meaning people that once "under the influence" of alcohol, they were incapable of controlling their own lives and their own destiny. Only white man's law could save them from themselves.

The problems experienced by some Alaska Natives today reflect more than comparable problems faced by non-Natives with alcohol, because the message of Russian, territorial and, finally, state law has been that because of their "special" propensity to disintegrate socially under the influence of alcohol, Alaska Natives must defer to Western control.

Whether this message was true or false a century ago, its reoccurring educational effect has left a bitter legacy for Alaska Natives, American Indians generally and, in fact, for many other indigenous people throughout the world subjected to Western colonialism.

Compared to it, social scientific explanations of modern day problems with alcohol among Alaska Natives as the result of external factors such as oil development, threats to subsistence, inappropriate education, or internal factors such as child rearing, disproportionate adult-child ratios, etc., all become secondary to the larger social message conveyed to Natives regarding alcohol.

Alcohol control law in rural Alaska taught Natives to lose faith in their own power as individuals or as groups to control and shape their own destiny.

No greater harm could be done to any person, any group or any culture than to encourage it to lose faith in itself.

That Alaska Native people have not lost faith is a tribute to their tenacity.

FOOTNOTES

1. The federal prohibition of the sale of intoxicants to Indians first appeared in the Intercourse Act of 1802 (Act of March 30, 1802, ch. 13, sec. 21, 2 Stat. 139, 146). As 25 U.S.C. Secs. 241-50 was repealed by the Act of June 25, 1948, ch. 645, sec. 21. 62 Stat. 683, 862. Thus, prohibition of sales to Alaska Natives was a policy inherited as a portion of the "received" Indian law doctrine of the contiguous United States. See Felix S. Cohen, "Indian Liquor Laws" in Handbook of Federal Indian Law (1942) pp: 352-357.

However, peculiarities in the legal status of Alaska Natives (and the territory of Alaska) determined that, according to Cohen, "Alaska [was] not covered by the [national] Indian Liquor Laws" (Cohen, 1942:357). Congress passed special legislation on liquor for the territory, including a grant to control liquor traffic to the territorial legislature. Act of April 13, 1934, 48 Stat. 583, 584.

Cohen summarizes the Alaskan situation as follows:

The Act of July 27, 1868, 15 Stat. 234, 241, R. S. § 1955, gave the President power to regulate importation and sale of distilled spirits in Alaska. Four years later the case of United States v. Seveloff, 27 Fed. Cas. No. 16252 (D. C. Ore., 1872) decided that Alaska was not Indian country and that the special Indian liquor laws did not extend to the new territory. In the following year, Congress extended the Indian liquor laws to Alaska by the Act of March 3, 1873, 17 Stat. 510, 530. Again by the Act of May 17, 1884, 23 Stat. 24, Congress prohibited importation, manufacture, and sale of intoxicants to all of Alaska and its inhabitants. This measure was amended by the Act of March 3, 1899, sec. 142, 30 Stat. 1253, 1274, to limit the prohibition to selling to Indians.

As amended by the Act of February 6, 1909, 35 Stat. 600, 603, the Act of 1899 remains in force [in 1942]. In answer to the question of the Secretary of the Interior as to whether the Indian liquor laws apply to Alaska, the Acting Solicitor of the Department of the Interior in 1937 gave his opinion that they do not. His opinion reached the following conclusion:

It is evident, therefore, that Congress did not regard those provisions i.e. the Indian liquor laws, as having application to the natives of Alaska; otherwise, the enactment of section 142 above [30 Stat. 1274] would not have been necessary. That the territorial legislature entertained a like view is shown by the fact that it has also seen fit to deal specially with the subject of liquor control among the Alaska natives (see section 4063, Compiled Laws of Alaska, 1933). In any event, the enactment by Congress of a special liquor law for the natives of Alaska makes the general enactment found in Section 241 [25 U.S.C.] locally inapplicable (Op. Sol., I.D., M.29147, May 6, 1937, pp. 18, 19) (Cohen, 1942:357).

The federal and territorial statutes in Alaska, however, had the same doctrinal content and were repealed at the same time that federal legislation on Indian liquor control passed from the scene.

As will become apparent, however, control on Native drinking as articulated by statutes passed through several periods when statutorially and theoretically the entire Alaska population was barred from the importation, consumption or use of intoxicating beverages.

2. Evangeline Atwood writes that the mining camps voted two to one in favor of prohibition, [T]his disproved the campaign argument that the roughneck and freedom-loving workmen could not be procured to take out the gold in interior Alaska mines if 'the lid was on' (1979:310). What it may have proved was that the belief was widely held that the new prohibition would not be directed against white men.

Atwood describes many irregularities which may have contributed to the lopsided margin:

Military personnel stationed in the territory were not eligible to vote, yet they did; Eskimos and Indians who were not American citizens had voted; second division voters were not required to register, as they were elsewhere; individuals voted in districts where they did not have legal residence; technically, hundreds of ballots could be declared void, depending on who made the determination; if wholesale voiding of ballots was resorted to, it could be anyone's race.

At Ouzinkie the natives used Democratic sample ballots instead of official ballots and their names appeared in the registry in the same handwriting. At Tanana, a small trading post at the confluence of the Yukon and Tanana Rivers, 145 votes were cast, which was proof that the soldiers at Fort Gibbon had voted, though ineligible to do so. At Utica, where Wickersham won a plurality, the Democratic officials claimed the election was illegal because official ballots were not used. At Susitna, where Wickersham got every vote, the United States commissioner was replaced eight weeks later (1979:310).

3. I suggest further legitimization because the work of village councils established by teachers and missionaries which involved enforcement of village ordinances could be said to have been made legal by territorial legislation that allowed communities which had no judge or U.S. Commissioner to employ their city councils as police courts.

LIQUOR TRAFFIC AMONG THE NATIVES.

The work of the special employees for the suppression of the liquor traffic among the natives of Alaska during the fiscal year has been noteworthy, first, because of the number of cases that have been successfully prosecuted and the very apparent effect that their work has produced in a preventive way. This is apparent from the fact that there is less drinking of liquors by Indians and fewer cases of illicit manufacture of native intoxicants, and with it a decrease in the commission of other crimes caused by the liquor traffic among the natives. The number of arrests and convictions of offenders for crimes other than selling and giving liquor to Indians may be noted. These arrests were a direct result of the traffic and caused by it. While the average native takes to red liquor as naturally as a duck takes to water, it is worthy of note that there are many earnest and sincere natives who are real workers in the cause of temperance and sobriety among their people, and the drinking of intoxicants is discouraged, both by precept and example; and the efforts of these men are beginning to bear some fruit. Such natives cooperate with the Government special agents in their work of suppressing the traffic, and accordingly excellent results are apparent.

Four special employees were employed during the year, one in each of the four judicial divisions, their respective headquarters being at Juneau, Nome, Valdez, and Ruby. Each of these officers covers an extensive territory, and in the second, third, and fourth judicial divisions they frequently must make long journeys, both by land and water, with the means of transportation often slow and uncertain. They are required to make monthly reports to the governor's office showing their itineraries and the results of their work each day of the month. These reports show that a total of 66 persons were arrested by or at the instance of the special officers during the year. In addition to this number, cases were prosecuted upon evidence obtained by deputy United States marshals. Of the cases presented, 41 were in the first judicial division, six in the second, 20 in the third, and 17 in the fourth. The charges preferred against the several defendants, and the disposition made of the cases in the first judicial division are as follows:

Furnishing liquor to natives (prosecutions under the Federal statute).—Two persons arrested and dismissed upon hearings before commissioner for lack of evidence; one dismissed upon hearing because of failure of complaining witness to appear; one case taken direct to grand jury, which failed to indict; two bound over, indicted, and found not guilty upon trial in district court; three bound over, indicted, found guilty, and given two months each in jail; three bound over, indicted, found guilty, and given three months each in jail; two bound over, indicted, found guilty, and given four months in jail; two bound over, indicted, found guilty, and given five and six months, respectively, in jail; one bound over, indicted, found guilty, and given two years in the penitentiary.

Giving liquor to Indians (prosecutions under chapter 51, Session Laws of Alaska, 1915).—One discharged upon hearing before commissioner owing to lack of evidence; one (Chinese) pleaded guilty and was fined \$200; one pleaded guilty and was fined \$150; one (native) found guilty and given two months in jail; four found guilty and given three months each in jail; four found guilty and given 100 days each in jail; one found guilty and given four months in jail; three found guilty and given jail sentences of 200, 250, and 260 days, respectively.

Drunk and disorderly (prosecutions before the municipal courts of Juneau and Ketchikan).—Seven natives were successfully prosecuted; one was given a jail sentence of five days, one was fined \$15, two were fined \$20 each, two were fined \$25 each, and one was fined \$75.

The special officer in the first division performed a large amount of patrol and investigation work during the year, which was fruitful of results in preventing violations of law and in preserving order in outlying communities not usually visited by regular peace officers.

Six arrests were made by the special officer working in the second judicial division during the fiscal year; five of the defendants were bound over to the grand jury, one defendant being released upon a hearing before the United States commissioner. The grand jury returned true bills against four of the defendants, who were bound over to await its action and a not true bill as to the other one. Upon trial the four persons indicted were found guilty; one was fined \$100 and one was sentenced to three months in jail; one was sentenced to a year

and one to 15 months in the penitentiary. This officer also did a large amount of patrol and investigation work throughout his division during the year, traveling several thousand miles, both by steamer and by dog team.

Twenty persons were arrested by or at the instance of the special officer in the third judicial division during the fiscal year. The charges brought against the several defendants and the disposition made of their cases were as follows:

Assault with deadly weapon.—One white man bound over and case awaiting action of grand jury at the end of the fiscal year.

Furnishing liquor to natives (prosecutions under the Federal statute).—One white man bound over, indicted, pleaded guilty, and sentenced to one year in the penitentiary; one Japanese bound over, indicted, found guilty, and sentenced to one year in the penitentiary; one native bound over, indicted, found guilty, and sentenced to 130 days in jail; three white men, one Japanese, and one native bound over and cases awaiting action of the grand jury at the end of the fiscal year.

Giving liquor to natives (prosecutions under chapter 51, Session Laws of Alaska, 1915).—Three natives were convicted before the United States commissioner and sentenced to 60 days each in jail; one native was convicted and a fine of \$120 imposed, which was served out in jail at the rate of \$2 per day; two white men were convicted and sentenced to four months each in jail; one was convicted and sentenced to six months in jail; one was convicted and sentenced to three months in jail; one was convicted and sentenced to two months in jail, and one was convicted and sentenced to one month in jail.

Selling liquor without a license.—One white man convicted before commissioner and fined \$500.

The special officer for the third judicial division performed a large amount of patrol and investigation work in the district during the year and much good was accomplished in this way.

In the fourth judicial division 17 persons were arrested by or at the instance of the special officer during the fiscal year. The charges brought against the several defendants and the disposition made of the cases were as follows:

Assault.—Two natives found guilty upon hearing before the commissioner and sentenced to 60 and 90 days, respectively, in the Federal jail.

Attempted rape.—One native bound over to the grand jury, indicted, found guilty upon trial in the district court, and sentenced to 12 years in the penitentiary.

Disorderly conduct.—Two natives found guilty before the commissioner and fined \$25 and costs and \$10 and costs, respectively.

Disturbing the peace.—Two natives found guilty before the commissioner and fined \$30 and costs each, the fines being served out in jail.

Furnishing liquor to natives.—Two natives arrested, but dismissed upon hearing before the commissioner and held as witnesses in a case against a white man; two white men bound over to the grand jury and awaiting action of that body at the end of the fiscal year.

Purchasing moose meat in the close season.—One white man found guilty before commissioner and fined \$200.

Rape.—One native bound over to the grand jury, indicted, found guilty upon trial before the district court, and sentenced to a term of 10 years in the penitentiary.

Selling moose meat in the close season.—One native, dismissed upon hearing before the commissioner.

Selling liquor without a license.—One white man found guilty before the commissioner and fined \$100 and costs, the same being served out in jail.

Sending poison through the mails.—One white man bound over to the grand jury, indicted, found guilty upon trial before the district court, and sentenced to a term of two years in the penitentiary.

Vagrancy.—One white man found guilty upon hearing before the commissioner and sentenced to 100 days in jail.

TERRITORIAL OFFICERS.

I have to renew the recommendation contained in the last two annual reports of this office that the offices of the surveyor general and ex officio secretary of Alaska be segregated and that an annual appropriation be made for the maintenance of the latter office. There is nothing in common between the work of the offices as at present conducted, and the needs of the Territory require that the surveyor general shall give undivided attention to that office. With the promised extensive development of Alaska and the increase of population the office of the secretary of Alaska will become more and more important. For the present it might be attached a bureau of immigration and industrial statistics, two lines of endeavor of vast importance to the Territory not only in the immediate present, but in the future as well. The same office might also assume the duties of registrar of vital statistics, an office created by the Territorial legislature, which is now being filled by the surveyor general as ex officio secretary of the Territory. He receives fees to the maximum amount of \$2,500 a year for services rendered the Territory in connection with his duties as secretary of Alaska and as registrar of vital statistics. It may be added that Congress has never made any provision for the maintenance or equipment of the office of the secretary of Alaska. The offices of the Territorial treasurer and Territorial inspector of mines were created by the legislature, session of 1913, these officials being appointed by the governor for a term of four years. The office of the attorney general was created at the 1915 session of the legislature. The office is elective and will be filled at the general election in November, 1916. The treasurer of the Territory receives a salary of \$4,000 a year; the Territorial mine inspector \$3,000, with an expense allowance of a like amount; and the attorney general will receive a salary of \$5,000 per year. There are also four road commissioners, one in each of the four judicial divisions, these officials being elected for the term of two years.

PUBLIC BUILDINGS.

In 1910 Congress authorized the erection of a public building at Juneau, the capital of Alaska, to cost, with the site, \$200,000. A site was purchased at a cost to the Government of \$22,500—an excellent

ARRESTS by Special Officers, Fiscal year ended June 30th, 1925.

	Arrests	Convictions.	Fines	Jail Sentences aggregating	Bail	Brought to Grand Jury	Appealed to District Court
Claude Shea (resigned): July 1, 1924 to March 31, 1925.	*29	27	\$7850-	5 years 5 months 5 days (17 cases)	\$2000-	3	0
Hugh P. Allen Apr. 1, 1925 to June 30, 1925.	1	1	(Released by Judge with promise that he go home.)		-----	0	0
Robert James	17	12	\$3400-	3 years (6 cases)	\$1650-	6	1
L. E. Seneff	**10	8	\$118-	7 mo. 15 days. (3 cases)	\$3500-	**2	0
L. E. Wilson.	**18	17	\$1840- and costs.	1 yr. 20 days. (7 cases)	\$3500-	3	0
W. Jackson	6	4	\$95-	0	-----	0	0
TOTAL	61	69	\$13,303-	10 yrs. 1 mo. 10 days. (34 individual cases)	\$10,650-	14	1

- * Of these arrests, one was made for possession of 2 sea otter skins. Plead guilty; and One case ordered to leave the country.
- ** Of these arrests there were 2 cases pending June 30th, 1925.
- ** Of these arrests, two were made at Petersburg for violating game laws, having deer in their possession. Fined \$100 each and costs.

NOTE: This report does not include arrests made in assisting U. S. Marshal's Office.

TERITORY OF ALASKA

PROTECTION OF GAME
SUPPRESSING TRAFFIC IN INTOXICATING LIQUORS

Tanana, Alaska, July 1, 1930.

GOVERNOR'S OFFICE

Hon. Geo. A. Parks,
Governor of Alaska
Juneau, Alaska.

NOTE:- Second Division Report of
arrests listed on page 7.

Dear Sir:

I have the honor to submit herewith my annual report as special officer for the suppression of the liquor traffic among natives in the Fourth division of Alaska, for the fiscal year ended June 30, 1930.

A good gas boat with a house on it, where an officer could make his home during the summer season while patrolling the waters of the several rivers in the division, would do much in putting an end to the liquor traffic and drunkenness among the natives. The Indian like the white man throughout the Fourth division of Alaska, has become adept in the ways and means of screening himself from the eyes of the law, by hiding his illicit distillery in secretive places, where the officer would hardly be expected to visit or look for distilleries. The whiskey once made, is cached in secluded spots and not drawn on, until wanted for sale or drunken parties. These places being off of the regular route of travel and out of sight and ear shot, the officer in search and travel on hurriedly trip; will most likely overlook them. If it were possible for the officer to remain some length, at these places and make a careful search, where liquor conditions are known to be notorious; there is nodoubt but what his efforts would be rewarded by arrests and convictions.

The following is a report of liquor conditions where I have visited or otherwise obtained through substantial sources,

Yukon River Section:-

Circle:- For a small place, I considered conditions bad. The several arrests which I made during the spring of 1929, should improve matters, however, Circle should be visited again during the spring of 1931, in order to hold it in check.

Fort Yukon:- Conditions among the natives are fair, considering the large native population, but there are a number of illicit stills known to be scattered in and around that section of the country. The natives on Salmon River, are reported to be drinking heavy. In order to get results, one should remain there for a month.

TERRITORY OF ALASKA

PROTECTION OF GAME SUPPRESSING TRAFFIC IN INTOXICATING LIQUORS

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Beaver:- Conditions not bad, however, there are some liquor made and drank in a small way. One white man has been reported to make "moonshine" whiskey and sell it to all that wish to buy it, and some three natives have stills, they are said to be making for their own use and not selling much if any.

Stephen's Village:- Conditions not good. The natives, a number of them are said to have real copper stills, and some of them are making "moonshine" whiskey for the market. Considerable drunkenness have been reported, since my last visit. If it were possible for an officer to drop in there at the right time, he nodoubt be able to clean the place up in good shape. To do this would mean a gas boat trip either out of Tanana or from Circle down stream. The latter preferable.

Rampart:- Conditions are pretty good. One white man and about two natives are about all that are said to be making, which is in a very small way.

Tanana:- Conditions are good. The liquor that reaches this place, is brought in from a distance, however some drinking at times are noticed among the natives, but this is not frequent.

Kelland:- A couple of white men have been reported to be making "moonshine" whiskey in a small way, and some of the liquor has been reported to have been sold in Tanana, however the signs are not noticeable.

Kokrines:- Conditions have improved some, but at that it is far from being good. One white man has been reported to be making beer and selling to natives, and about all of the natives make liquor in some form and drink it. They are a bunch of drunks.

Ruby:- Conditions good. One man is said to be making beer and selling it to white men, however, some of the natives along the river in that vicinity make "moonshine" whiskey for their own use, but in the whole the out put is very limited, and a drunken person is seldom seen.

Kuyokuk Station:- Conditions not good, a great many of the natives, are reported to be making "moonshine" whiskey and drunkenness is said to be in vogue.

TERRITORY OF ALASKA

PROTECTION OF GAME SUPPRESSING TRAFFIC IN INTOXICATING LIQUORS

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Nulato:- Conditions are not the best, a great many of the natives are making "moonshine" whiskey and drinking heavy, however they keep under cover pretty well. They do most of their drinking while on their trap lines and not so much as heretofore at their fish camps.

Kaltag:- Conditions bad, as the natives like Nulato and Kuyokuk Station, make liquor and get drunk quite frequently.

Anvik:- Conditions fair. Some of the natives here make whiskey and sourdough mash, but that section is not so bad as in and around Nulato.

Holy Cross:- Conditions good, taking it as a whole among the natives.

Shageluk Slough Country:- Conditions bad, but have improved a lot over two years ago.

Russion Mission:- Conditions very good. None of the natives here are said to be drinking or making.

Marshal:- Conditions not bad, but conditions are said to be bad in and around the South mouth of the Yukon extending down stream to Old Hamilton. Sourdough mash is what is made in this section by the natives. This is ofcourse in the Second division.

Galena:- Fifty miles below Ruby. Conditions fair, but some of them make whiskey and are considered to be heavy drinkers.

Koyukuk River section:-

The lower end of the Koyukuk River, during the trapping season, where the Nulato and Koyukuk Station natives go to trap, for about 200 miles up stream, is not good, here is where they operate their tin-can stills, and there is much drinking and drunkenness. The summer time, is different as most of the natives are on the Yukon River fishing, and this part of the river is almost depopulated.

Wiseman:- Conditions, just fair. One white man is claimed to be operating a still and selling to both natives and whites. The natives themselves, do but very little distilling liquor, some make beer, however there is some drunkenness among them. aside from this, nothing has been reported.

TERRITORY OF ALASKA

PROTECTION OF GAME SUPPRESSING TRAFFIC IN INTOXICATING LIQUORS

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Tanana River Section:-

Chena Village:- Conditions not good. The natives buy their whiskey in Fairbanks, and drink it at the village. None of the natives here, make whiskey, but there is two known bootleggers in that vicinity that makes whiskey and sell it to them occasionally, but most of their product is sold in Fairbanks.

Nenana:- Conditions fair, however the natives drink whenever they can buy it, but the bootleggers are getting pretty well thinned out. The natives here are hard drinkers, but very few of them make whiskey, some of them make beer. The natives here must be held in check, in order to keep them away from the distilling of whiskey, of which they are apt to do at anytime.

Minto Village:- All of the natives drink heavy, they buy it from outlying places, very few if any are making whiskey, but some are making beer.

Tolovana:- Conditions good. No distillery here, whit liquor their is, comes in from other places.

Hot Springs:- Conditions bad. Three white men reported making "moonshine" whiskey and selling it to Natives as well as white men. Considerable of drinking going on at Hot Springs. One native near Dugan Creek is said to make whiskey and sell it to natives. Most of this native's whiskey is disposed of along the river at Tolovana and Minto Village. I have searched both this native's place and the white mens, but for the last two years, I have had little success.

Cochamet Village:- Conditions not bad, some beer has been made there and one native is said to be making whiskey, but there is very little drunkenness.

Kantishna River Section:-

A number of white men have been reported to be making whiskey and selling to natives. The entire river should be patrolled. Some of the natives are also making whiskey and beer, but, they are also scattered from one of the Kantishna River to the other. I visited this section some years ago and found several stills, one being a 40 gallon still, but was unable to connect the owners of the stills and ofcourse made no arrests.

TERRITORY OF ALASKA

PROTECTION OF GAME SUPPRESSING TRAFFIC IN INTOXICATING LIQUORS

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Kuskokwim River Section:-

Good News Bay country:- Conditions bad, the natives here are making sourdough mash, and drunkenness is reported to be everywhere; there is also several white men said to have stills and they sell to the natives and trade the whiskey to them for fur etc.

Bethel:- Conditions good. A few white men are claimed to be making whiskey for sale.

Akiak:- Conditions among the natives are pretty good, however some two or three white men have been reported to be distilling whiskey, and there is times when some of the natives have known to be drunk.

Ohogomute and up stream to McGrath, all of the natives, are reported to be a drunken bunch. Sourdough mash, is what the natives are making and drinking. The still outfits are found around McGrath and Tacotna, which are in the hands of the white man, some of this liquor I am told is sold and traded to natives.

During the fiscal year just ended I have traveled by railroad, steamer, gasoline launch, horse team, dog team, row boat and by foot miles, investigated more than 200 cases in connection with the liquor traffic, made arrests, procured convictions, paying fines, with jail sentences, assessed fines aggregating some \$ total time served by all prisoners combined years, seized illicit stills, about gallons "moonshine" whiskey together with quantities of mash for the manufacture of whiskey; all of which was destroyed after trial and conviction of each case.

The following are the names of persons arrested by me, showing fines and jail sentences imposed on them during the fiscal year ended June 30, 1930.

1 Joe John, (Indian) Tanana, Alaska, arrested July 5th, for violating the Alaska Dry Law, convicted July 6th, fined \$50.00 which he paid.

2 Mike Nicolai, Tanana, Alaska, also a native, arrested July 5th, for violating the Alaska Dry Law, convicted July 6th, fined \$50.00 which he paid.

THE TERRITORY OF ALASKA

PROTECTION OF GAME SUPPRESSING TRAFFIC IN INTOXICATING LIQUORS

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- 3 Joseph Nicolai, (Native) Tanana, Alaska, arrested July 5th, convicted July 6th, fined \$50.00 for violating the Alaska Dry Law, fine was paid.
- 4 Abraham Hunter, (Indian) Tanana, Alaska, arrested July 5th, for violating the Alaska Dry Law. Sentenced July 6th, sentenced to 30 days in jail and to pay a fine of \$60.00, fine was paid.
- 5 Zacharia Reece, (Indian) Tanana, Alaska, arrested July 5th, convicted July 6th, sentenced to 5 days in jail and to pay a fine of \$60.00, fine was paid.
- 6 Joe Landers, Ruby, Alaska, arrested July 23rd. for haveing in his posession 1, 30 gallon still set-up and in operation together with 10 gallons of whiskey and 250 gallons of whiskey mash and other paraphernalia for the manufacture of "moonshine" whiskey, in violation of the Alaska Dry Law, entered a plea of guilty the same day of arrest and was sentenced to serve 3 months in jail.
- 7 Andrew Pilot (Native) Koyukuk Station, Alaska, arrested August 2nd, for haveing a still in his posession, mash and 2 qt. bottles of "moonshine" whiskey, convicted under the Alaska Dry Law, August 3rd, sentenced to 3 months in jail and to pay a fine of \$50.00, fine paid.
- 8 Mathew Charles, (Native) Koyukuk Station, Alaska, arrested August 2, for haveing a still out complete in his posession together with mash and "moonshine" whiskey, sentenced August 3, to 2 months in jail.
- 9 Julius Negolsa, (Indian), Koyukuk Station, Alaska, arrested August 2nd for haveing a complete still outfit in his posession together with "moonshine" whiskey and mash, entered a plea of guilty under the Alaska Dry Law, August 3rd, and was sentenced to serve 60 days in jail.
- 10 Sarah Yaska, (Native) Tanana, Alaska, arrested September 3rd for being drunk and disorderly, fined \$10.00 which she paid.
- 11 Joe John, (Indian) Tanana, Alaska, arrested Sept. 3, for being drunk and disorderly, entered a plea of guilty Sept. 4th, and was fined \$10.00 which he paid.
- 12 Oscar Emerson, Tanana, Alaska, arrested March 7th, for selling intoxicating liquor to indians, tried and convicted same day of arrest, sentenced to 4 1/3 months in jail.

TERRITORY OF ALASKA

PROTECTION OF GAME SUPPRESSING TRAFFIC IN INTOXICATING LIQUORS

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- 13- George Bailey, Tanana, Alaska, arrested March 7th, for selling intoxicating extracts to natives, arraigned same date of arrest, entered a plea of not guilty, released on bond of \$250.00 for his appearance in local court March 10th. The case was dismissed without prejudice, there being not sufficient evidence to warrant a jury trial.
- 14 2nd. Divn. --- Jake Topolsky, Nome, Alaska, arrested June 23rd, for having a still complete and three gallons of whiskey in his possession; on June 24th entered a plea of guilty for possession and was fined \$300.00 which he paid.
- 15- John Swedeman, Nome, Alaska, arrested June 26th, and John Wagner for having a large distillery together with large quantity of whiskey in their possession, found at their still house, which is located by following a well broken trail from their living quarters direct to said still house. This still outfit is acknowledged to be the largest of its kind in the Nome district. The trial of which has not come up, and further details of it will appear in next years business or 1931.

The summary of my work is as follows:

Miles traveled.....	5190
Arrests made.....	16
Convictions secured.....	13
Cases still pending.....	2
Persons paying fines only.....	5
Persons paying fines with jail sentences.....	4
Persons serving jail sentences only.....	4
Jail sentences suspended.....	1
Stills seized and destroyed.....	10
Whiskey seized and destroyed.....	40 gls.
Mash seized and destroyed.....	1448 gls.
whiskey seized but not destroyed.....	52 gls.
Fines Imposed.....	\$640.00
Total Jail sentences combined.....	16½ mo.

All intoxicating liquors, mash, whiskey, stills together with the paraphernalia for the manufacture of the same was destroyed at time of seizure or after trial/conviction of each case. The Swedeman and Wagner case's are pending in court, therefore, all evidence is being held. All of which is respectfully submitted.

H. E. Leneff
Special Officer.

TERRITORY OF ALASKA

Suppression of the Liquor Traffic in Alaska

Tanana, Alaska,
July 1, 1933.

Hon. John W. Troy
Governor of Alaska
Juneau, Alaska

Dear Sir:

I have the honor to submit to you an annual report of my activities and findings as special officer for the suppression of the liquor traffic among the Natives in Alaska, showing conditions effecting the Fourth and Second Divisions for the fiscal year ending June 30th 1933. Also as a, Special Agent.

The following is a report of the liquor situation and drunkenness among the natives in the districts that I have visited, obtained through correspondence or by persons whom I met and conversed with.

Conditions Kantishna River

I have not visited the Kantishna River district for a number of years, but in talking to a number of white men that are trapping in that district, I would say that conditions as to the liquor situation among the Natives, are quite good, everything considered, however there are a number of illicit stills operated by white men living on the Kantishna and one or two of them have been reported as selling "moonshine" whiskey to the Natives - no drunkenness among the Natives, have been reported to me from this district this year.

Nenana River Section

Kobe and along the Alaska R. R. to McKinley Park: White men operate distilleries in a small way, one outfit was reported to be operating in the vicinity of Kobe Station, section, two at Healy, another near the Healy coal mine's and two or three in and around McKinley Park district - some of this liquor I am told does reach the Indians.

Tanana River Country

Nenana:- Illicit distilleries are being operated here by the white men and all of them sell to the natives. Conditions for drunkenness among the Indians has always been bad enough here, and when the Natives have money, they can always buy intoxicating liquors from the bootleggers - about two of the natives in this district is said to operate illicit stills at times, but none of the natives are said to be selling it.

Minto Village:- Conditions are not bad here, however, all of the Indians, will get drunk when ever they have enough of money to buy from the white man.

Tanana River continued

Minto Village continued:- The bulk of the liquors drank by the natives here, comes from Nenana, where they buy it and trade their fur to the white men bootleggers. Infact Nenana is quite a source of supply for the natives to buy and trade for intoxicating liquors. Some of this liquor reaches the natives for some forty miles up the Tanana River, taking in Wood River Village, and down stream to the mouth of the Kantishna River - the Chena Village Indians buy their whiskey and beer from Fairbanks.

Tolovana:- No Indians here to speak of and what liquor they get, is claimed to come from Nenana. Dugan Creek, one native operated still near here, but is now in jail facing term in penitentiary, however, some liquor from Hot Springs finds its way to most of the camps along the Tanana.

Hot Springs:- (Manley) Ever since the marshal's office has been discontinued at this place, distilleries and white men bootleggers are doing lots of business - I destroyed two large "moonshine" plants here last fall - my previous reports will show that in the past that I have arrested and convicted most of these fellows, but they will not quit - Indians can buy liquor from them, and they do - several persons here burned to death in their cabins, while others froze to death from drinking whiskey bought from these bootleggers. - my movements last fall was ~~was~~ rushed to the men in their distilleries, before I could reach them.

Tofty:- Just one white man operating still here, I got his distillery last fall, but missed getting him, as he too was notified by phone - his whiskey, lots of it reaches the Indians - some years ago I picked him up in his distillery - he was fined \$500.00 which he paid.

Coschacket Village:- Natives buy their liquor from Hot Springs - some beer made here by the natives, but on a small scale.

The Yukon River

Eagle:- Conditions are very good, no liquor violations among the natives reported here.

Circle:- Conditions fair, some beer made and one native said to operate still once in a while, while on trap line - some intoxicating liquor reported to reach the Indians here over the Steese Highway from Fairbanks.

Fort Yukon:- Conditions not so good here, the natives are making beer and some whiskey, and a number of the white men operate stills, some give to natives while others sell it to them - a good time and about the only one is to pick them up out on their trap lines, thats the time they distill whiskey - some of the natives make intoxicating liquor in their fish camps - useless to try to catch them right after the ice goes out in the spring. one illicit still destroyed here.

Yukon River, continued

White Eye:- It is said that whiskey is made here at times by a white man and sold in Fort Yukon, I looked the camp over here last spring, but found nothing in the way of any intoxicating liquors or no signs of any liquor being made on the premises.

Beaver:- Moonshine whiskey is said to be made here in a small way at times ~~but~~, both by the Indians and about two white men, however, there has not been much drunkenness reported in this district.

King Slough Village:- Small Village of Natives lives here, no drunkenness reported at this place and there is no violations around Moose Island committed, in the way of intoxicating liquors being made or sold.

Stephen's Village:- There is both "moonshine" whiskey and intoxicating beer made at this place by the Natives, and at times there is quite a bit of drunken natives - it is a hard place to get in to, as it is so far away by itself, and to get there, when the natives has the liquor or on a drunk, is another thing, that is not easy to do. (Two stills destroyed)

Rampart:- Conditions are pretty good, however there is about one white man that makes whiskey sometimes and about two or three natives and half blood natives that operate stills or makes beer, but it is reported to be on rather a tame order and no big drunken parties.

Tanana:- Some beer made here among the white men and the natives can buy it from them, also some "moonshine" whiskey is made during the freeze-up and when the ice is running, down stream from Tanana, in or around Grant Creek and Kallands - 3 arrests and convictions here this winter - one for beer and the other two for "moonshine" whiskey violations (white men) but convicted for selling and giving intoxicating liquor to Indians. Rather the giving of intoxicants to a Native, was a bind over case to the Grand Jury.

Kokrines:- Is noted for quite a drunken place, made four arrests here last summer and had four convictions, one still outfit destroyed here - the natives here operate stills and make malt syrup beer and get drunk and fight among each other. Since these arrests conditions are said to be much better.

Ruby:- Conditions not so good, yet it is much better than Kokrines, 1 large still outfit destroyed here on my last summer's trip of the Yukon - no arrest made - no one with outfit.

Galena:- Conditions not so good here, but it is not so very bad either, however I stopped twice at this Village up and on my down river trip last summer and I found no liquor violations at that time, of course, the natives at least a part of them make "moonshine" whiskey and beer during the year and get on big drunks, but they try to have none around that an officer can find if they can help it.

Koyukuk Village:- Conditions not good, many of the Natives manufacture "moonshine" whiskey and make beer, and they are well known here as a drunken bunch of Indians. One Indian arrested here and convicted for manufacturing liquor and possession of intoxicating liquor.

Nulato:- Conditions not good, there is both "moonshine" whiskey and beer manufactured and sold here - the Indians a great many of them manufacture liquors and get drunk, and the jail usually has a native prisoner or two locked up in its cells, seldom is it empty.

Kaltag:- Conditions bad, the natives here have stills, make whiskey and beer - they are a drunken lot of Indians, of course not all the time, but a greatdeal of their time.

Anvik:- Conditions, pretty good so far as drunkenness among the Indians are concerned - it is at this point where the Shageluk Indians come out to the Yukon River to fish in the summer time, and they are a bad degenerated drunken lot of Indians. The time to get these fellows is when they are fishing on the Yukon River, or just before they go out trapping and hunting in the Fall, or after they come in from ratting in the spring in the Villages Holikachacket and Shageluk, on the Innoka River. (usually spoken of as the Shageluk Slough)

Holy Cross:- Conditions good, however, one 30 gallon still is said to be operated at times near Holy Cross on the Yukon River below Holy Cross - a white man is said to be the owner. He is married to a native woman.

Russion Mission:- The start of the 2nd, Division. Conditions are very good, none of the Natives are said to be manufacturing any intoxicating liquors of any kind soever, and there are no drunkenness there.

Marshall:- There is said to be some beer and whiskey both made by the natives and whites in this vicinity, so it has been reported to me by white men also natives.

Yukon River 2nd Division, cont.

The Villages around the South mouth of the Yukon and at Old Hamilton and vicinity and all along the Yukon from Marshal down in the fish camps of the Natives, it is a known fact that the natives are manufacturing a sourdough-mash and much drunkenness prevail among them, most of the time - some white men are said to operate stills and manufacture "moonshine" whiskey, and one man at least is said to be selling whiskey to the natives both for cash and their fur. This part of the Yukon River should be looked over for liquors and stills this summer or fall, anytime before the fishing season ends.

St. Michaels:- Some sourdough mash is made here and drank by the Natives, and some drunkenness is in evidence at times, however, it is not so bad as at the South Mouth of the Yukon or around Hamilton and vicinity.

The Nome and Behring Sea District:- The white men here are trafficking heavy with intoxicating liquors among the Indians and Eskimos, infact the bootleggers are very numerous all over this country, and most of the liquor that the natives consumes comes from the white man bootlegger - a few of the natives make some intoxicating liquors, but they buy most of it, at least that is my observation of the matter.

Kuskokwim River

Stoney River Village:- Conditions not good, one white man is said to be making here and selling to the Natives, and most of the Indians are making a sourdough mash and much drunkenness prevails in and around this village.

Sleetmute:- Conditions not good, lots of Natives manufacturing sourdough mash and much drunkenness prevails in and this village - no white man operating stills at this place.

Napamute:- Conditions not good in this Village or in the vicinity of Napamute - sourdough mash is the principal drink all along on the Kuskokwim River by the Natives.

Ohogomute:- Conditions not good, all or nearly all of the natives make sourdough mash and hold drunken parties, at their fish camps. One arrest made here.

Aniak Village:- Lots of sourdough mash made here and drank by the Natives, conditions not good. Two arrests made here, which was of the worst offenders.

Tulaksak Village:- Conditions quite good, very little drunkenness among the Natives in this village.

Kuskokwim River

Akiak Village:- Conditions, very good, so far as any manufacturing of intoxicating liquors are concerned by the Eskimos and Indians, but there are about two white men in this section that makes "moonshine" whiskey, and some of this whiskey gets to the natives.

Akiakchok Village:- Conditions very good, no intoxicating liquor made or drank here.

Bethel:- Conditions good, no intoxicating liquor made or drank here by the natives, and I know of no white man manufacturing liquor or selling intoxicating liquors.

Kokuk Village and around mouth of Kuskokwim River:- Conditions not good, practically all of the Natives(Eskimos) manufacture intoxicating sourdough mash and are very much of a drunken degraded bunch of natives - made one arrest here.

Good News Bay country:- Lots of Eskimos and lots of drunkenness from drinking sourdough mash - conditions are said to be very bad in this section clear around to Nushagak, which is of course getting into the Third Division. This section of the Koyukuk, rather Kuskokwim River, should be by all means visited this summer and well run out for intoxicants.

During the fiscal year just ended I have traveled by railroad, steamer, airplane, automobile, horses, gas boat and by foot 5167 miles, investigated over 200 cases in connection with violation of Liquor traffic among the Natives and miscellaneous investigations along the Alaska Railroad, made 11 arrests, procured 10 convictions, having 1 case bound over to Grand Jury, 7 with jail sentences, 3 paying fines, aggregating some \$400.00, total jail sentences, 1 year, 7 months and ten days, seized and destroyed 12 illicit stills together with intoxicating liquors and mash and all paraphernalia for the manufacture of intoxicating liquors, where found, or after trial and conviction of each case - liquor when used for evidence, was stored with the marshal's for safety.

The following are the names of persons arrested by me, showing fines and jail sentences imposed on them during the fiscal year ended June 30, 1933.

1 No.66 Julius Negolsa,(Native) arrested July 8, 1932 at fish camp, resident Koyukuk Village, Post Office, Nulato, Alaska, tried and convicted July 8, at Nulato, before Geo.T. Towne, U. S. Commissioner, sentenced to 6 months in Federal Jail at Nulato, crippled in hip, walks lame, age around 50 years - the charge was manufacture. Also selling to Indians.

2 Kyogan, (Eskimo) arrested July 24, 1932, at fish camp at Kokuk, Alaska, for possession of intoxicating liquor and for being drunk and disorderly, Kokuk, is at the Mouth of the Kuskokwim River. Tried and convicted at Bethel Alaska, before U. S. Commissioner, C. M. Link, July 25th, sentenced to 50 days in the Federal Jail at Bethel Alaska. Age about 27 years old, short built, about 5 ft. 4 inches tall and weighed about 150 pounds.

3 No. 96 Alexy Danjarak, (Native Indian) Aniak, Alaska, Kuskokwim River, arrested at his fish camp on August 5th, 1932, by warrant of arrest, charged with possession of intoxicating liquor and drunk and disorderly, tried and convicted before Geo. Morgan, U. S. Commissioner, on same day of arrest at Kalskak, Alaska, sentenced to 50 days in the Federal Jail at Bethel, Alaska.

4 No. 97 Kereala Ekumkaksluk, (Indian) Aniak, Alaska, Kuskokwim River, arrested August 5th, 1932, at his fish camp, by warrant of arrest, charged with possession of intoxicating liquor and for being drunk and disorderly, tried same day of arrest before George Morgan U. S. Commissioner, at Kalskak, Alaska, convicted and sentenced to pay a fine of \$100.00 which he paid.

5 No 292 Basil Cleaver, Kokrines, Alaska, arrested September 3, 1932, on the Yukon River, for violation of the Bone Dry Law, tried and convicted same day of arrest, before Wm. N. Growden, U. S. Commissioner, Ruby, Alaska, sentenced to serve 30 days in the Federal Jail at Ruby, Alaska. Native Indian, tall goes lame, slender, smooth shaved, age 41 years.

6 No. 293 James Johnson, (Indian) Kokrines, Alaska, arrested September 3, 1932, at Kokrines, for violating the Alaska Bone Dry law, tried and convicted same day of arrest before U. S. Commissioner, Wm. N. Growden, Ruby, Alaska, sentenced to serve 30 days in the Federal Jail at Ruby, Alaska. Age 23 years.

7 No. 294 Moses Williams, Native Indian of Kokrines Alaska, arrested September 3, 1932 for violating the Alaska Dry Law, tried and convicted same day before U. S. Commissioner, Wm. N. Growden, Ruby, Alaska, sentenced to 30 days in Federal Jail at Ruby, Alaska, age 26 years.

8 No. 295 Evan Hardluck, Kokrines, Alaska, (Indian) arrested September 2nd, 1932, for having illicit still outfit in his possession, whiskey and alcoholic mash for the manufacture of "moonshine" whiskey, tried and convicted before Wm. N. Growden, U. S. Commissioner, at Ruby, Alaska, for violating the Alaska Bone Dry Law and was sentenced to serve five(5) months in the Federal Jail at Ruby, Alaska.

9 No 42, Paul Fromming, Tanana, Alaska, was arrested here first on January 27th, for violation of the Alaska Bone Dry Law, being Case No.41, which was dismissed and Case No.42 filed under Chapter 51 of the Session Laws of Alaska 1915 was entered against him in U. S. Commissioners Court, and on February 1, 1933, Paul Fromming was again arrested and tried on the same day of arrest in Commissioners Court, Jessie M. Howard, U. S. Commissioner, by a jury, which resulted in a hung jury, 10 to 2 in favor of conviction - not being enough talisman in the district for a second trial, the U. S. Attorney of Fairbanks, Julian A. Hurley, ordered that the case be held and not dismissed, but to rearrest Paul Fromming and file another charge against him under Chapter 2022 Compiled Laws of Alaska, and bind him over to the Grand Jury, which was done on February 10th, 1933, under bond of \$1000.00 for appearance before said Grand Jury-sometime next spring - this Case was No. 43 - A. G. Vachon and George Lindsay was Fromming's bondsmen. It will be noticed that there has been three arrests in all, and that I am making one Case only out of it - one of these charges will be dropped against Paul Fromming in Fairbanks, by the U. S. Attorney, before the case comes up in court. Paul Fromming, is accused by John Larson, husband of Lucy Larson, a full blood Indian woman, of giving his wife, Lucy, intoxicating liquor to drink and getting her drunk on the evening of January 27th, 1933- I had Mr. Larson file the complaint against Paul Fromming and had S. E. Heeter, U. S. Deputy Marshal, serve the warrant, in order that I myself could legally prosecute the case, which I done. Paul Fromming served a year in the Federal Jail in the Second Division for violating the liquor laws, and later shot and killed two white men at Anchorage in his own house, for which he was acquitted by a Jury. Fromming has taken out his first Citizenship papers. He should never be allowed to get his Second papers - he's a bad actor and should be deported.

10 No.45 George Bailey, Tanana, Alaska, arrested at Tanana for possession of over 5 gallons of "moonshine" whiskey found in his place of business, under search warrant on March 18th, 1933 tried same day before U. S. Commissioner, Jessie M. Howard, entered a plea of guilty, and was fined \$150.00 which he paid.

11 George Lindsay, Tanana, Alaska, arrested March 18th 1933, for possession of intoxicating liquor, which was found in the pool hall, cigars and soft drink place, owned by himself and George Bailey, entered a plea of guilty same day of arrest for possession of "moonshine" whiskey, before Jessie M. Howard, U. S. Commissioner at Tanana, Alaska, and was fined \$150.00 which he paid.

(9)

During the month of June, I was assigned to miscellaneous investigations along the Alaska Railroad by J. A. Ramsey, Special Agent in Charge of the Division of Investigations, Anchorage, Alaska. For the large number of employees, from Seward to Fairbanks, employed by this railroad, I must say that I found conditions very good, taking it as a whole, from one end to the other of the Railroad.

The summary of my work is as follows:

Miles traveled,.....	5167
Amount of fines collected,.....	\$400,
Arrests made,.....	11
Convictions secured,.....	10
Cases bound over to grand jury,.....	1
Cases still pending in District Court,.....	1
Persons serving jail sentences only,.....	7
Persons paying fine only,.....	3
Cases lost,.....	None
Number of stills seized and destroyed,.....	12

All intoxicating liquors, mash, paraphernalia for the manufacture of intoxicating liquors together with stills, were either destroyed at the time of seizure or after trial and conviction of each case or was turned over to the deputy u. s. marshal for safe keeping or to be held by him, while securing additional evidence etc. All of which is respectfully submitted.

H. E. Seneff
Special Officer,
Special Agent.

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TOWN LAW AND VILLAGE LAW: SATELLITE VILLAGES,
BETHEL AND ALCOHOL CONTRL. IN THE MODERN ERA --
THE WORKING RELATIONSHIP AND ITS DEMISE

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by

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ABSTRACT

In Southwestern Alaska, the underpinning of the working relationship between official law and village social control was tied to alcohol control. This paper examines the breakdown of this relationship in the 1960's and its impact on village law. It also assesses the role of town liquor policy and town police and treatment resources on alcohol-related violence in the villages in the 1970's. It argues that a recent movement to reinstitute prohibition of importation and sale in many villages must be understood as a desire for renewal of a working relationship between two centers of legal authority.

Introduction

On June 19, 1981 Alaska Governor Hammond signed into law state legislation which allowed both municipalities and established villages not incorporated under state law to vote into effect (among options afforded) prohibitions on both the sale and importation of alcoholic beverages.

By the following June, more than 30 of the 110 villages contacted by representatives of Alaska Legal Services, who spelled out the options as well as the legal mechanics, had voted for a ban on sale and importation. Of these, fourteen villages of about fifty Yupik Eskimo and Athabascan villages in the Yukon-Kuskokwim Delta had voted in favor of the ban, each one a Yupik Eskimo village of about 400 persons served by the 3,500 person town of Bethel, the government center of the Delta. (Tundra Drums, June 24, 1982:1) One of the Yukon Indian villages in the 90,000 square mile region had voted to a tie.

This research monograph, one of a series on the impact of alcohol control laws on Alaska Natives, took on special importance as a result of what appears to be a movement throughout rural Alaska to make sale and importation of liquor crimes prosecutable as misdemeanors with minimum ten day terms and vehicular confiscation possible outcomes, village laws now enforceable by state troopers.

Had Native Alaskans abdicated their own legal authority to state law? Were Native Alaskans victims of a century of missionarization or now true believers in their own eternal

fallibility when liquor was present?

Speculation by non-Native migrants to Alaska, persons who come to govern Native Alaska through centralized state bureaucracies, may have settled on any of these theories.

In fact, villages in Alaska operated from a special historical perspective. When territorial and late state law was concerned, each could relate to a time in the not too distant past when a working relationship between village law and outside law had as its underpinning, alcohol control. Each had experienced a change in that relationship with the coming of statehood that had disempowered villages. Some had observed the shift in patterns of alcohol-related violence as Bethel had shifted from a legal source of liquor to an illegal source in 1974 when it voted to ban sales.

The movement to validate the local option law can only be understood in the context of an ongoing relationship between outside law and village law. It must also be understood in terms of the relationship between Bethel, the source of law and liquor, and villages within its orbit.

Methodology

The paper draws upon several forms of data. Indian hospital records, jail booking sheets, treatment center records, letters to troopers, village council records, unpublished meeting records, field interviews and investigations all find a place in this analysis. Standard crime reports were limited to those matters dealt with by state troopers. Much alcohol-related violence

was not reported to police or perused and could best be discovered in hospital records¹ or in village accounts informally kept. (See Angell, 1981)

The purpose of this paper is to educate state legal officials to the legal culture which they created in rural Alaska. One hopes that it will serve to dispel the impression that villages developed problems legal and governmental out of cultural inadequacies, culture shock or that grand catchall, social breakdown.

In fact, the breakdown in rural law stemmed from a failure to listen to Alaska Native leadership in the villages and to reinforce and respect village legal authority when respect was critical to the quality of village life.

The Breakdown

Representatives of eleven villages in the 57-village 19,000-person Bethel region met in Bethel on September 19, 1962, both to organize what came to be the Association of Village Council Presidents and to discuss the interplay between state law and traditional social control meted out by village councils as each dealt with liquor-related problems. (See map, Appendix 2.)

In this epoch (the early 1960's), village councils were the mainstay of ins...ionalized village social control (Hippler and Conn: 1973, 1975). Village police, jails or judges were nearly non-existent. Where village police were retained, they were untrained individuals who served to bring persons before the councils (Angell: 1978).

The state legal system was then represented by a single state trooper in Bethel, charged with law enforcement throughout the 90,000 square mile region. The daughter of a marriage between an Alaska sourdough and Yupik Eskimo, former U.S. Commissioner Nora Guinn was the State magistrate in Bethel. Law school-trained judges with authority to try felonies flew into Bethel periodically to try cases, as did attorneys for the prosecution and the defense.

The minutes of the meeting reveals the liquor-related problems of the epoch, the work of councils in unincorporated communities, and the limited capacity of the state to reinforce village control of alcohol.

(Transcript Excerpts)

The meeting was brought to order at 9:35 a.m., September 19, 1962, by Mr. R. D. Hollingsworth, Area Field Representative for the Bethel District. In opening, he stated that this meeting was called by Peter Carter, president of the Eek Village Council, and welcomed each village representative present. He explained that a meeting similar to this had been held in Kotzebue, Tanana and Barrow and then proceeded to introduce the officials attending the meeting: State Trooper Robert Redstone; Captain Mayfield, Alaska State Police; Mrs. Nora Guinn, Deputy Magistrate of the Bethel District; Mr. Hall of the Realty Office; Arthur Nagazruk, Tribal Relations Officer from Nome; Mr. Jenson from Juneau who assists villages in developing economic projects; Mr. Charles O'Brien, Finance Specialist; and Mr. J. Lloyd Watkins, Education Specialist of the Bethel Office. He stressed that these officials were not here to run their meeting, but to help them and give advice where needed.

The Meeting was turned over to Peter Carter, president of the Eek Village Council. He stated that the objective of this meeting was to try and standardize the village council rules in the area. The first, and most important, rule to be talked about was the problem of making and drinking home brew in the villages. Second, fines - how much to be fined a person for the first charge, second, etc., and how many times they should be fined. He said that the enforcement of the village council rules has to be carried out by the village council members. He asked who they should call or write to when they need help. They were told to write to the State Trooper or Mrs. Nora Guinn, Deputy Magistrate. The meeting was then open for group participation and questions.

Steven Maxie, president, Napaskiak Village Council, stated that he liked the idea of trying to standardize the rules of the village councils and the fact that everyone is getting together to try to form rules that will help the whole area.

Nile Smith, president, Hooper Bay Village Council, also liked the idea of standardizing the rules and regulations of all villages and stated that it will strengthen the rules and regulations and help in the enforcement of them and will be good for future generations.

Dan Akeralrea, president, Scammon Bay Village Council, stated that he had come a long way to attend this meeting and that it was the first meeting of this type that he has ever attended. The standardization of the rules and regulations of the villages has long been needed. He is anxious to return to his village and report to the other members of the council whatever he learns here this day. He mentioned that the council rules and regulations should go along with the State rules.

William Lomack, president, Akiachuk Village Council, said that he approved of this type of meeting and its objective. He,

too, agreed that the rules should go along with the State to strengthen them. He mentioned that it would be necessary to see that these rules are applied and carried through.

Captain Mayfield of the Alaska State Police in Anchorage stated that he was pleased to see that the people were interested in rules and regulations to make this a better place to live. He is here, not to interfere, but to give these people present any assistance they may request.

Peter Carter then read the rules of Eek for the other villagers to compare with their own:

1. If anyone from any other village should get drunk in town or making trouble, should be fined \$10.00.
2. Anyone making alcoholic brew without a license will be reported to the State Police.
3. Anyone stealing or using somebody else's property without permission will have to pay the owner of the property.
4. Loose dogs of six months should be tied down by the owner. If not tied up after told two times by the council, the dog will be shot.
5. On school days the curfew will be at 9:00 p.m. Week-ends 10:00.
6. If a man is drunk and makes trouble, will be stopped by the council and if he does not obey the council will be fined \$10.00.
7. Children using BB guns will be fined \$10.00. The fine will be charged to the parents.
8. Gambling prohibited.

Peter asked for comment on these rules. William Lomack, Akiachuk, said he was interested in the rule regarding the making of home brew. He wants to go back to Akiachuk with an understanding what this group has decided on the making of home brew in the villages. He mentioned the bad parts of home brew making such as stomach disorders and the various unnecessary trouble it causes. Nile Smith, Hooper Bay, felt that we should work on this problem first, particularly on the fine and the punishment. The fine should be set to coincide in all villages. He told of the rules in Hooper Bay pertaining to this problem. When a person is found guilty of making home brew he is first given a warning by the council. The second time he is fined \$25.00, and the third time the officials are called and he is reported to the State Police. Steven Maxie, Napaskiak, informed us that a new council had been elected on August 12 and that he

was comparatively new as president of the village. The village has been going by an old set of rules and regulations and the new council is presently going over these old rules and adding new ones. He told the group what is done in Napaskiak when a person is found guilty of making home brew and is drunk from it. He stated that Napaskiak has had many of their villagers drown because of this problem. For the first offense the person is fined. The second time, they work 8 hours a day for one week in the village. The third time, he is restricted to the village for three weeks and they work for three weeks on village projects. They are allowed to go to church and to the hospital only. If a man comes in from another village and acts violently, they ask for help from the State Trooper if they are unable to handle it themselves.

Peter Carter stated that in Eek they also report to the State Trooper when drinking and home brew making laws are not adhered to. He asked for further instructions regarding the reporting of these cases to the State Trooper.

Trooper Redstone told the group that the laws put down state that as far as making home brew, they can do nothing on it or stop them unless they make it for re-sale. If they drink it themselves, there is nothing they can do.

Mrs. Guinn said that the villages, legally, cannot have an ordinance that will conflict with the State laws, but she felt that the village councils can make their own rules and make their own punishments as an unincorporated village.

Captain Mayfield said that the villages can pass a law that would prohibit them from making home brew, but they cannot make rules that are more strict or more lenient than those of the State. Mr. Hollingsworth explained to Captain Mayfield that some rules that the village councils make are enforced by the village council but not by the State. He asked that if they should have someone in the village who will not obey the council and his behavior leads into breaking a State rule, will the police be harder on him than they would be if they had punished in the village? Captain Mayfield said they certainly would go all the way and would refer him to the courts. They will take ones that the villagers have had no success in dealing with. Mr. Jensen asked if there was any State law relating to creating a public nuisance, or could be classed as such, in case a person insisted on making home brew. Mr. O'Brien stressed that they should be careful in making their rules in that they do not take away the rights of the people. The meeting was adjourned temporarily for a 15-minute coffee break at 10:30 a.m. [AVCP, 1962: 1-6]

Comment:

In this epoch, Southwestern Eskimo villages confronted the making of home brew as the major alcohol-related problem and not

liquor purchased from liquor stores or bars.

This focus on home brew demonstrates the rather belated introduction of other sources of liquor to this Alaska region. Tom Brower, the whaling station boss and "father" of the Northern outpost of Barrow described the manufacture of hootch from sugar and molasses, purchased from his post in that area of the territory and his destruction of stills in 1896 (Brower, 1960). Southwestern Alaska did not join other regions in active commercial liquor trade until much later.

Councils had found support in the work of United States Commissioners at Bethel and Fortuna Ledge, Moravian and Catholic missionaries and liquor suppression officers hired for the territory prior to 1953. They had also looked to their status as villages organized under the Indian Reorganization Act for legal authority in territorial days (Peratrovitch, 1974) as well as territorial laws which allowed unincorporated village councils without commissioners to enforce police ordinances.

What each discovered in 1962 was that the backing of state law was not the same as the backing of other earlier, territorial sources of legal authority. Even Federal law appeared to offer no reinforcement of council attempts to impose village rules.

Transcript Continues:

Mr. Carter brought the meeting back to order at 10:45 a.m. He said that everyone should know what the Federal laws state regarding the making of home brew and other alcoholic beverages. He asked the State Trooper to tell them what he knew about this. Trooper Redstone said that the first problem he ran into when he came to the Bethel District was that of home brew making. In our

State laws, he could find nothing on the making of beer where they could enforce it or where they could do anything about it. He further stated that there is a Federal law which says you cannot make wine without a license and it states the certain kinds of wines which this rule applies to and the percentages of alcohol content. He has taken this problem to the State Attorney and there is nothing at all on the making of home brew. Nile Smith, Hooper Bay, said that, to them, wine was the same thing as beer and they both take away food items that the villagers need in their homes such as sugar, yeast, etc. He urged the group not to be afraid to get up and talk and let their feelings be known. Peter Carter asked the group to let him know what they think about the rules of the Eek village - if they think they should be changed, say so, and if they think they are fine, let it be known. Trooper Redstone let it be known again that the making of home brew is not a criminal offense and that they can do nothing to enforce it. Mr. Hollingsworth informed the group that there is no way they can make a law which would interfere with the personal liberties of the people. Captain Mayfield added that they cannot stop them from making this a law in the village, but that this is a problem which should be asked of an attorney as it would be a defiance of constitutional rights. The group was cautioned again that they must be careful in making their rules that they do not take away the rights of the people in their own home. [AVCP, 1962: 6-7]

Comment:

Village leaders were confronted with two problems. First, the backing of state law was not evident in dealing with the major liquor problem of the period and, second, they, as law enforcers, were warned by police authorities that their acts in protection of community interests might make them subject to law suit or arrest. Village leaders had too little experience with courts to evaluate these warnings of legal actions which might be brought against them.

It is not surprising that the discussion shifted to a second question. If councils did not possess legal authority to deal directly with liquor manufacture, as each had in territorial days, who then could be called into the village to enforce state

law?

Transcript Continues:

Dan Akeralrea, Scammon Bay, asked the question who they should call or who to write to when they have trouble in the village. They were told to write to Trooper Redstone or Mrs. Guinn. Trooper Redstone said to address all letters to State Police, Bethel, Alaska. This way, their letters will always get to the proper person in charge in case of personnel changes. The group asked Trooper Redstone to advise them on what instances they should write or call for help. Redstone said he would like to be notified of all accidents where someone is drowned, shooting accidents, any injury resulting in death, and instances where someone is drunk and acts violently, placing other members of the village in danger. If it is an emergency, they can notify him by radio; if not, by mail. [AVCP, 1962: 7-8]

Comment:

Trooper Redstone accurately described legal matters emanating from small villages that the state police were prepared to handle, not only in this epoch, but throughout the 1960's and 1970's. Serious, felonious acts were viewed as trooper business in the village. Though state law had removed direct responsibility over village crime from the villages, the state legal apparatus was not prepared to prevent crime in the villages or to deal with minor offenses, this in an epoch when councilmen perceived that village liquor control and action against minor offenses was the key to prevention of serious crime in the village.

Transcript Continues:

Nicholai Steven pointed out to the group that the problem of drinking and home brew making in the villages is beginning to draw in the young people more and more and it is bad thing for the villages to allow it. Mr. Hollingsworth interrupted for a moment to inform the group that he had just made a phone call to the State Solicitor's office in Anchorage asking for their interpretation regarding home brew making and if it is, or is

not, illegal. Their answer was: "No, it is not illegal, but if they give it to minors or start throwing things and causing a disturbance, it is against the law." A gentleman got up to state that this problem cannot be overlooked in their villages and if they do not make an ordinance prohibiting the making of home brew, it will continue to be a major problem. He put the question before the group - are we or are we not going to allow the making of home brew in our villages? They discussed this in Eskimo and a final decision was made that they do want to have an ordinance stating that they do not want people making home brew in their homes. Mr. O'Brien stressed that the people should understand that this rule about home brew will be up to them and they should understand that if they go into someone's house, they are trespassing and should know that this is not right. [AVCP, 1962: 8] The group posed the question as to whether or not they could go into a home to stop the making of home brew. They were told that this is breaking the law in that it is trespassing and the person involved could file charges against whoever goes into the house to stop this. This law cannot be enforced by anyone but by the village council members themselves. If the group thinks that it will help the majority of the people, to go ahead and pass the ordinance. A discussion in Eskimo was held and they decided that they still wanted the ordinance prohibiting the making of home brew in the home. They expressed their understanding that this ordinance would have to be enforced by the council members only and realized the fact that they could not call upon the State Police for help in this enforcement. [AVCP, 1962: 8-9]

Comment:

Even in the face of threatened state prosecution for trespass and withdrawal of official state support for their work, councilmen decided to continue to support direct action against home brew manufacture in their villages.

The afternoon session then turned to a second problem, the role that Bethel then played in creating liquor-related problems in their villages.

Transcript Continues:

Peter Carter called the meeting to order at 1:00 p.m. and asked of Trooper Redstone what can be done to individuals who are known to be "boot-leggers". Trooper Redstone said to write a letter to the State Police, Bethel, giving information such as

who bought the bottle, from whom and state everything they know about it and they will take it from there.

Peter said they have heard that there is "boot-legging" in Bethel. Sometimes some of their villagers buy a boot-leg bottle from Bethel and return to the village and cause trouble there. Trooper Redstone told them that if a person from another village buys a bottle from Bethel and goes back to the village and causes disturbances, to try to find out where that person got the bottle in Bethel and let him know so he can do something about it. The subject of fines was brought up. Some people are fined a small amount while others are fined too much. They felt that their fines should be the same as what the State fines their people for drinking, and wanted to know how many times they are fined and any other additional information concerning this. Redstone advised the group that he had taken this up with the District Attorney also. The people are not allowed to fine by law. You can fine them daily if they agree to pay the fine to make up for what they have done. It is all right to fine if all parties are agreeable. If they do not go along with it, there is nothing they can do to make him pay except to apply social pressure. Peter Carter asked if the people that are picked up and put in jail in Bethel are fined. They were told they were since Bethel is incorporated. The definition of the word "incorporated" was questioned. Mr. Hollingsworth and Mr. O'Brien defined the word as best as they could for the group. Mr. Jensen then explained about a fourth class village and what it has to offer. Mr. Carter asked the group if they should go ahead and continue fining people in their own villages with the full knowledge that it will be up to the council members only to collect these fines. Sam Alexie said that the fine placed on the villagers for drinking usually prevents them from drinking again since they do not like to pay the fines. He felt that if they did not continue to fine villagers for this, they will cause more trouble than before. Trooper Redstone told the group that the decision would have to be up to the people. [AVCP, 1962: 10]

Peter Carter stated that in some villages the fine for the first charge of drinking is \$20.00. In Eek, the fine for the first charge is \$10.00. He asked how that compared to that of the State fines. Redstone said it was hard to compare since fines are sometimes suspended and that the magistrate often fines just as she sees fit according to the circumstances and the fines are not always uniform among their cases. The group expressed their desire to make the fines uniform among all the villages.

Steven Maxie of Napaskiak said their village has the person work his fine out if he does not have the money to pay. He said they also have the rule that if he will not pay or work it out, they can turn it over to higher authorities. Trooper Redstone said they cannot make the person pay, but they can turn the complaint into him and he can work on the complaint, but not on the fines or penalties. The subject of fines was then dismissed at this point. [AVCP, 1962: 11]

Comment:

To the further surprise of some councils who had emulated territorial commissioners and levied fines, state police officials now informed them that this authority, along with the authority to prohibit manufacture of home brew, did not enjoy overt support of state legal officials.

The council's fining authority had given them symbolic identity with other mechanisms of white law such as the Bethel commissioner. Now it appeared that this method of identifying village legal power with state legal power would not be supported by state legal authorities.

It appeared then that the only basis of authority to be found for this form of alcohol control would be through uniform action among the Eskimo villages and not from state law.

From this matter, the AVCP addressed yet a third problem within the realm of liquor control; the problem of pilots bringing in liquor to the villages.

Transcript Continues:

Peter Carter stated that when he first was elected president of the Eek village council, the villagers wanted him to meet each plane coming into the village and see if liquor was taken off the plane. If there was, he was to tell the pilot to put it back on the plane. He said that this was hard for him to do, and since he knows the State Trooper can't do such a thing, he wouldn't do it either. A gentleman got up and stated that in Togiak the council has a rule that if a pilot brings in liquor to the village or a drunk passenger, the passenger is fined \$25.00 and the pilot \$500.00. The group discussed this subject in Eskimo. Mr. Carter told the group that since this was the first meeting of this sort and since not all the villages were represented at this time, it would be better to go over only a couple rules or so and not try to go over them all at one time. For a start, the

most important rules have been discussed and there will be another meeting of this type in the near future. . .[AVCP, 1962: 12]

Comment:

From what had transpired, village officials understood that they would find no support from state police for prohibiting alcohol transport by pilots into their villages.

Bureau of Indian Affairs officials, apparently as surprised as village leaders with the interpretation of state law placed before them, could only promise to seek assistance from attorneys.

Transcript Continues:

Mr. Hollingsworth stated that after the minutes of this meeting were typed, he would pick out the rules which were decided upon and send them to a lawyer to look over. If the lawyer finds fault with them, he will be requested to re-write them and make any comments that he might have. He said that at the next meeting, he will try to have a lawyer to sit in at the meeting and help them with their rules. [AVCP, 1962: 13]

Comment:

The message of the 1962 village meeting was not good. Councils discovered that general prohibitions of liquor backed by village consensus and historically by teacher-missionaries and territorial officials would not receive the backing of state law. Instead, state law made them vulnerable to lawsuits if they enforced bans against manufacture of home brew or introduction of liquor into their villages.

The 1963 Meeting

Bureau of Indian Affairs officials, State Judge Guinn and the District Attorney for the judicial district attempted to construct both a legal and extralegal basis upon which the state and villages could operate in controlling liquor problems.

This they accomplished in the second, September 1963, meeting of the Association of Village Council presidents of the Bethel area. This meeting was attended by officers of nineteen village councils.

(1963 Transcript Excerpts)

Village Rules:

Mr. Carter of Eek mentioned that a lot of time was spent on village rules last year but nothing was accomplished. This year, he said, they should try to get something done. First, it should be decided on how to handle the use of alcoholic beverages and drunk and disorderly people in the villages where there is no State Trooper. Mr. Carter mentioned a letter he received from the Kwethluk village council requesting that they discuss the bootlegger presently operating in Bethel. Moses Straus, the president of Kwigillingok, suggested a uniform set of rules for the village.

Mr. Egoak said that the reservation laws prohibited the importation and use of liquor. Mr. Jones pointed out that civil and criminal jurisdiction of restricted Indian lands and reservations in Alaska had been transferred to the State. Mr. Soll, District Attorney of the Fairbanks District, suggested this subject be brought up later when village rules were discussed. . . . [AVCP, 1963:3]

Mr. Carter announced that they would now take up the subject of village rules as the officials present to answer their questions would have to leave sooner than expected. He proceeded to read a letter from the Kwethluk Village Council dated 8-10-63 which mentioned liquor problems and the troubles which attended them. It also mentioned a Bethel bootlegger who sells liquor \$20.00 for a quart of whiskey. Mr. Carter said the letter suggested that the State Police should do something about it to cease his operating or be thrown out of Bethel. . . . These problems, plus the matter of home brew making and the punishment of trouble-makers in the villages, would now be up for discussion. [AVCP, 1963:4]

Kenneth Cleveland, Quinhagak, stated that when persons are fined, many times they don't have the money to pay. When given 90 days to pay and this period elapses if the fine is still not paid, the matter is usually forgotten. He said that this should not be. Sam Westcoast, Councilman from Goodnews Bay, asked how the drunks should be handled in villages where there is no State Trooper or Marshall. Mr. Soll, District Attorney for the Fairbanks District, suggested that, first of all, the village council should do all it can to handle the problems locally through fines, warnings, etc. If this does not bring any results, they should notify the State Trooper, make a charge against the individual and he could then be brought before the Magistrate for punishment. He stated that this was his only proposal to them. Discussion followed in Eskimo in which no translation was made. [AVCP, 1963:5]

Comment:

The district attorney for the Bethel village region, Herb Soll of Fairbanks, had apparently been briefed on the vacuum created by direct withdrawal of state support for open-ended village council activity to control alcohol. He advocated a two tier approach of village and state law, not unlike that found in other developing countries. Given the absence of trooper and judicial activity in all villages except for Bethel and Aniak, his suggestion implied some continued form of collaboration between state law and village law, even though law enforcement was viewed as extralegal by state officialdom.

Transcript Continues:

Charles Harry, representative from Alakanak, read the village rules which had been adopted in his village. These covered drinking, sniffing gasoline, drunken driving of motor vehicles, delinquency of minors, operating a motor boat while intoxicated, loose dogs and their disposition, burial of dead animals, discharge of firearms near the village and damaging other people's property. Fines ranged from a minimum of \$10.00 to a maximum of \$25.00. Any serious breach of law would be turned over to the State Police. Any person unable to pay fines is put to work at the rate of \$1.50 an hour until the fine is paid in full. Mr. Carter translated these rules into Eskimo for the benefit of non-English speaking members. Frank Kameroff then

spoke in Eskimo on the village rules of Emmonak after which a discussion was held in Eskimo. The members decided to develop a general law and order rule which could be adopted and used in all villages.

Mr. Soll, District Attorney, spoke and said that the village rules of Alakanak were a good example and there were only a few that the State Trooper could not handle. He said that it is against the law to sell liquor without a license, to be drunk in public, to give liquor to a minor, for a minor to have liquor in his possession, to drive an automobile while drunk or have guns in his possession while drunk. If someone should try to do these things, this would be the time to report to the State Trooper and they would be able to help. He then explained certain activities which the State Trooper could not advise or help them on. He explained that there is no state law that says a person over 21 years cannot have liquor in his possession or that a village cannot show movies, etc.; they would have to be handled at the village level only. He pointed out that the State Troopers are willing to help them if they can. Sometimes the Troopers, when visiting a village, are told about a problem at the last minute. The members were urged to notify the Troopers of their problems by writing him a letter and giving the facts or have all the information on hand when he visits their village.

Lott Egoak, Akiak, asked Mr. Soll to give a step-by-step outline on how to handle drunks. Mr. Soll informed him that he would make some suggestions on this when they drew up a set of village law and order rules. He stated further that when the State says the council should try to handle their law and order problems it does not mean the large problems. Such problems as shooting, stealing of large amounts, etc., should be reported to the State Trooper immediately. Mr. Carter asked Mr. Soll to also suggest an amount concerning fines. It was decided that Mr. Soll should collect all the village rules which were brought to Bethel for his information. Mr. Soll collected these and Mr. Carter selected Charles Harry of Alakanak and Frank Kameroff of Emmonak to work with him as a committee. [AVCP, 1963:5]

Comment:

District Attorney Soll defined specifically laws governing alcohol control capable of enforcement by the village in the first instance with backing by the trooper if council action proved futile. Such activity included dealing with drunken behavior. While more supportive of council activity on behalf of state law, he did not suggest that the state would support

village bans on individual adult use or manufacture of alcoholic beverages in the village.

Transcript Continues:

Steven Maxie, President of Napaskiak, asked if the State Troopers were going to do anything about the bootleggers operating in Bethel. Mr. Soll explained that it was two different matters in knowing that someone is doing something wrong and proving it in court. Under our U.S. law, even if a person is accused of a crime, he is considered innocent until proven guilty. He further stated that one known bootlegger was presently serving a year's sentence in jail and the other had a five-year sentence, pending an appeal decision of the Supreme Court of the State. He urged the people to make an effort to refuse to patronize these men at \$20.00 a bottle, otherwise someone else may try to go into this business. A discussion was held in Eskimo following this.

Steven Maxie, Napaskiak, asked if they should report persons who are driving motorboats while under the influence of alcohol. Mr. Soll stated that the decision would be up to the council. If the village feels they can handle the case themselves, there is no need to call the State Trooper. If the council decides they cannot handle the case, it should be reported to the State Trooper as soon as possible. He pointed out that only the person operating the boat should be reported. Mr. O'Brien mentioned that the Coast Guard would have a man in the area next year enforcing Coast Guard small craft rules on the Kukskokwin...[AVCP, 1963:5]

Comment:

Village councils could not deal with known bootleggers operating from Bethel. Soll admitted that successful prosecution from his base in the interior Alaska city of Fairbanks (the hub of Bethel's judicial district) was difficult. His suggestion that consumers be warned not to buy was not one that councils believed they could act upon without the backing of the troopers.

The district attorney suggested that councils act to end drinking by boat operators. This suggestion that councils act outside of the village on villagers and nonvillagers was taken up

Bethel.

Transcript Continues:

One village delegate asked if they could stop the shipment of liquor into the village. Trooper Redstone explained that if someone orders liquor by airfreight and is over 21 years old, there is no State law which allows the State Police to do anything about it. One member asked if the village, by majority vote, could prevent shipment of liquor into the villages. Trooper Redstone said that if such a rule were made, it could be enforced by the village only. If the village could not enforce it, there would be no recourse to State Police, as there is no violation of State law involved.

Mr. Soll and his committee adjourned to the back room to work on the village law and order rules. [AVCP, 1963:6]

Comment:

The promised support of state law in the realm of alcohol control focused exclusively upon problems which had already begun and not on the presence of liquor as a source of trouble. From the village perspective, liquor's presence and liquor's availability were the logical points of attack by councils and state law. But, as in 1962, state legal officials offered no support to villages who wished to remain dry by curbing introduction of liquor into their communities. Support for such a position at the state level did not occur for another 15 years.

Transcript Continues:

7:30 p.m. Mr. Soll presented Mr. Carter with copies of the village rules developed by his committee. A copy was distributed to each member present and Mr. Carter translated them into Eskimo for the benefit of those who were unable to read.

Village Rules

Any violations of these rules shall be punished by a fine up to _____, as decided by the Council. Any fine may be worked out at the rate of \$2.00 per hour on work decided by the council.

1. Drunk and Disorderly in Public. Any person who appears in any public place while intoxicated or in a low and disorderly manner shall be guilty of disorderly conduct. A public place means any store, meeting hall, show hall, armory, post office, dock, sidewalk, street, road, school or any place where the public is invited.

2. Drunk and Disorderly in Private. Any person who is in a private house while intoxicated or who is acting in a disorderly manner to the disturbance of another person shall be guilty of disorderly conduct.

3. Selling Liquor Without a License. Any person who sells liquor to any other person without a State liquor license shall be in violation of these rules.

4. Giving Liquor to Minors. It shall be in violation of this rule to give, sell, or offer any alcoholic beverage to a person under the age of 21 years. The term alcoholic beverage includes home brew.

5. Minors in Possession of Alcoholic Beverages. No person under the age of 21 shall have, drink, receive or make alcoholic beverages, including home brew.

6. Drunk Operation of a Vehicle or Boat. It shall be a violation of these rules to operate a vehicle, including cars, trucks, snow travelers, snow planes, or dogsleds while intoxicated. It shall be a violation of these rules to drive a boat, with or without a motor, while intoxicated.

7. No person shall gamble with money or property by playing cards, dice, or any other game.

8. Dogs. All dogs older than six months shall be chained or tied so they cannot reach any path or trail or place where children play.

9. Discharging Firearms. No person shall shoot any gun within or near the village.

10. Damaging Property. No person shall damage or destroy the property of others. This includes personal property and buildings.

Subject rules were open for discussion. Mr. Soll pointed out that all ten rules were backed up and founded in State law and that villages enforcing them would have the support of the State. He also suggested that the rules concerning the drunken operation of a motorboat, which has been such a threat to human life, should in almost every case of violation be referred immediately to the State Police for action. The members discussed the rules at length in Eskimo. Mr. Carter said he felt these rules offered a good guide to the villages on ten important areas of law and

order and the members adopted them by acclamation. . . [AVCP, 1963: 8]

Comment:

Six of ten rules promulgated as ex-officio state rules for the villages dealt with alcohol-related conduct. Three others dealt with activities often associated with drinking, e.g., property damage, use of firearms and gambling.

No rule was provided to keep liquor out of the village, to prevent sharing of liquor among adults or, more specifically, to prevent sharing of liquor with persons known by the village to be violent when drunk. Yet officials recognized that these were to be the limits of state support for legal control over alcohol use by councils, acting as informal agents of state law.

Transcript Continues:

The matter of fines arose. Trooper Redstone informed the members that they can fine violators of village rules if they wish, but if the violator refuses to pay the State cannot help them collect the fine. It would have to be enforced by the village council only. The State Trooper has no power to set a fine or collect it for the village. He pointed out that if a person was not willing to pay the fine imposed for breaking any rules shown on the example sheet and the violator refused to cooperate, they could feel free to call upon the State Police for help. The membership continued to discuss the matter of fines in Eskimo. One delegate asked if, after a 90-day period, the violator still refused to pay the fine, he could be turned over to the State Police. Mr. Soll explained that it was not a good idea to wait 90 days to see if the person would cooperate. He suggested a 10-day waiting period as it would be easier to gather the proof necessary to see if the person or persons had broken the law. The members discussed this and agreed on waiting ten days to see if the violator would pay the fine or work; then turn the matter over to the State Police if they saw fit. Mr. Carter asked if the village could decide for themselves what the maximum fine would be. Mr. Soll said that this was satisfactory...[AVCP, 1963:8]

Comment:

Behind the prolonged discussion of collection of fines was the deeper problem of the credibility of the state-council relationship when persons challenged that relationship and did not pay fines. Eskimo officials sought from District Attorney Soll and the trooper representative some firmer understanding regarding trooper intervention.

When would the trooper intervene? Specifically, when would he demonstrate his support of council activity against individuals who challenged the council's authority? The basis for this concern was well known to the trooper in attendance, though perhaps not to Mr. Soll of Fairbanks. Many letters to the trooper post in Bethel regarding persistent acts of law violation related to liquor and repeated unsuccessful attempts by village councils to deal with repeat-offenders had not met with a visit by the trooper to the village. Trooper resources in the region were sparse.

Council members focused on sources of supply and made repeated, futile attempts to seek state support for outright liquor bans. This related to very pragmatic assessments of their limited capacity to act in anticipation of both state legal activity and problems sufficiently serious to merit state legal attention. This focus on supply did not relate to a belief that all Eskimos were incapable of drinking.

Confusion over the role of village prohibition on the part of state and town officials was to figure in the development of

state control mechanisms for another decade. One can argue that it still is a source of confusion. Council members viewed control of supply as a method of control when other kinds of direct control over individual use were not likely, given the continued absence of police service, facilities, prosecutors and other on-the-scene agents who could address problems after they had occurred.

Transcript Continues:

A question was asked regarding gambling. At the village of Kwethluk if a person is caught gambling, he is fined \$10.00 for the first offense, the owner of the house \$10.00 and the rest of the players \$5.00. Mr. Soll said this sounded very reasonable. Trooper Redstone requested the council to keep a record of their minutes concerning the facts surrounding a violation, mentioning the time, place, what happened, etc. In this way, when a case is referred to the Police, the council will be able to provide the basic facts in the case. [AVCP, 1963:9]

Comment:

The brief description of Kwethluk's approach to gambling conveyed to Soll and the troopers the strongly held belief of villagers regarding ultimate criminal responsibility. Villagers viewed the person who set in motion deviant activity as more responsible for that activity than any other person. State law viewed the actual perpetrator as independently responsible.

Thus, the person who gave liquor to a person known to be violent when intoxicated was for many villagers the person to be punished. When bootleggers began to operate more actively in Bethel in the 1970's, it was reported that they screened buyers and did not sell to such dangerous persons, thus avoiding responsibility for that person's ultimate acts and (perhaps) disclosure

by other community members. This same perspective, a dram shop perspective, also figured in the use of a "black list" in Bethel during the 1950's by legal sources of liquor and vigorous prosecution of those who sold to persons on the black list.

Yet the shape of state law conveyed to the Native population in the 1962 and 1963 meetings was otherwise. All adult persons were assumed capable of drinking until individuals among them committed disorderly acts. Then, and only then, did state law intervene or authorize intervention by the council.

Transcript Continues:

A question arose as to visitors in the villages violating the village rules. Mr. Soll stated that they should be handled the same as for residents of the village. If they refused to cooperate, they could be referred to the State Police. He inquired as to the use of the money collected by the village councils. Lott Egoak of Akiak stated that the money collected at his village is used to buy medicine for the village and to pay the plane fares for indigent families needing emergency treatment at the hospital. Mr. Soll suggested it be pointed out to all the members that the money collected from fines should not be used for private purposes, but for services which benefit the whole community. [AVCP, 1963:9]

Comment:

Village councils began to work under this cooperative procedure. They kept detailed council minutes of offenders; they also sent detailed letters regarding persons who would not abide with repeated attempts to enforce alcohol rules.

Critical to the operation of the system was effective state backing. What council presidents and village residents discovered was that the State Police were capable of dealing only with the limited number of violent occurrences and not with lesser

offenses that could lead to violence. Many requests for assistance went unanswered. The theoretical posture of State law was not reflected in reality.

Bethel opened a liquor store. Liquor traffic from Bethel to the villages was not curbed by State law enforcement. The problem grew along with changes in the region.

Council presidents returned to village alcohol problems in their 1965 meeting.

(Excerpts From 1965 Meeting)

Bethel Sales (Liquor Store)

Peter Carter made an opening statement about the liquor store. He informed the group about the complaints of many people and that many might want the establishment closed. He asked the group to bring out anything the members want to say about the liquor store.

Mr. Wassillie B. Evan, Councilman of the Napakiak Village Council, gave his views about Bethel Sales. He addressed the group that when the first liquor stores opened at Bethel (in the 1950's), he had consumed alcoholic beverages, and so had some of the members present; but many of them have now given it up because of the dangers involved. He further stated that the younger generation is more reckless than they were during the early years and it would be better to have the liquor store closed.

Mr. Alexie Evan, President of the Napaskiak Village Council, gave his views as follows: He had also used the alcoholic beverage; and during that time when the first liquor stores were open, there was only one drowning directly responsible to liquor. He pointed out that, as all know, there is a war going on. He compared the liquor store with those opposing democracy as being an enemy of our armed forces as many servicemen have drowned directly responsible to liquor. He protested that the liquor store should not be open as it is depriving the closer villages of young people.

Mr. Henry Evan, President of the Kwigillingok Village Council, said that the cause of many young people's downfalls is liquor. As he himself does not drink, he does not know its effects; but it is not good to see a young man die while he is

still strong. And as many young people follow their older fellowmen's examples, they do not listen to warnings from their parents or relatives about staying away from liquor.

He stated, the white people can take their drinking and know when to cease consuming it. It is the opposite with the Eskimo; and not knowing when to stop drinking, there are many accidents caused by liquor.

Mr. Wilson Simon of Bethel, as he wanted to contribute to the complaints against the liquor store, gave his views. Originally from Kwigillingok, he came to Bethel eight years ago. There was no liquor store then; but since the liquor store opened, the City of Bethel was not the same. There was mere uneasiness and many have experienced staying up at nights because of noisy brawls, etc.

Mr. Willie Stone, President of the Napakiak Village Council, said that many have heard of striving for better living; and those concerned organizations striving for that goal overlook the fact that there can be no better living as long as there is a liquor store at Bethel.

Mr. Joe Beaver, President of the Goodnews Bay Village Council, stated that if they united in trying to close the liquor store, they may have results. Speaking in terms of the armed forces, there are many young men eligible to join or have joined who are no longer living because of the liquor store.

Mr. James Paul of Kipnuk said that many people who do not drink will be starting at the present time, it is hard to keep an easy mind when a person finds it necessary to walk in the streets of Bethel at night.

Mr. James Jimmy (Ayagalria) from Napakiak stated that many people would be glad to see the liquor store closed. Although those who consume alcoholic beverages would be able to order liquor by freight, the conditions now prevalent in the surrounding area would improve considerably by having the liquor store closed.

Mr. Paul Black, Vice-President of the Napakiak Village Council, stated that although tuberculosis and other diseases have been the major causes of death, medical assistance has decreased the death rate caused by disease; but since the opening of the liquor store, the death rate has climbed.

Mrs. Nora Guinn, Deputy Magistrate of Bethel, gave some statistics on the arrests made since January, 1965. There were 505 cases brought to her attention [from January to September], the majority of them were charged with disorderly conduct under the influence of alcohol. Up to this date, there were fourteen drownings of which twelve are as a direct result of liquor. she stressed to the group that they must find a way to have the

Bethel City Council change their minds about having a liquor store at Bethel. She stated that she is 100 percent behind the Eskimos in trying to do away with the liquor store.

Mr. Roy Peratrovich, Tribal Operations Officer, BIA, Juneau, offered a suggestion. He said that a concerted effort is needed in order to get the liquor store closed. A petition should be sent out in the next general election of the Bethel City Council. The Bureau of Indian Affairs will do all it can to help in the problem, but the Natives will have to take the first steps in getting Bethel Sales to close down. He added that voters are given an opportunity to decide whether or not to have the liquor store.

Mr. John F. Gordon, Area Field Representative, BIA, Bethel, said that those eligible voters who have not resided at Bethel for 30 days or more are not eligible to vote in the general election of the City Council, but the weight of complaints the Natives could express, to friends or relatives living in Bethel, to close the liquor store would be of some help.

A comment was made that State officials should know of the liquor store problem. Mrs. Nora Guinn wrote some addresses on the blackboard to whom objections to Bethel Sales should be sent.

These being:

Governor William Egan
State Capital Building
Juneau, Alaska 99801

Alcoholic Beverage Control Board
State of Alaska
Thomas Building
Juneau, Alaska 99801

Copies should be sent to the following:

Bethel City Council
Bethel
Alaska 99559

Board of Trustees
Bethel Sales, Inc.
Bethel, Alaska 99559

Mr. Paul Jenkins, President of the Nunapitchup Village Council, brought up a question from his village. The question was, "Can the liquor store be sued?"

Mr. Roy Peratrovich, Tribal Operations Officer, BIA, Juneau, said the liquor store itself cannot be sued, but the owner can be sued if the store attendants sold liquor to an intoxicated person.

[T]he members were asked to write their letters of objection when they return to their villages and send them to the addresses written earlier and sending copies to those concerned at Bethel.

The members were asked not to put the writing of their complaint letters off too long and to pass on what information they got from this meeting to their villages.

It was agreed not to discuss any further the general election at Bethel as the members of the Association were not eligible to vote. (In order to vote, one of the requirements is to be residing at Bethel for 30 days or more.) [AVCP 1965:9-11]

Comment:

This dialogue among village council presidents concerning Bethel's liquor store pinpoints quite accurately significant changes in Southwestern Alaska and their connection to alcohol use..

In the 1960's the Native population in that region showed an annual increase 29.4 per thousand with a crude birth rate of 45.9, one that Tussing and Arnold noted (1969) was perhaps the highest birth rate in the world. Deaths by tuberculosis have been contained in the 1950's by Public Health service campaigns and infant mortality reduced. The net result was a young population (median age 16.5 in 1969) with increasing pressure upon elders in the villages who exercised traditional guidance and social control (See Hippler and Conn: 1973)

Population increases were significant in both the town of Bethel and in surrounding villages.

Bethel, the only natural deep fresh water port, established itself as administrative center of the region as well as prime market for fish processing. Its population grew from 651 (in 1950) to 1,258 in 1960, and 1,600 in 1966, fed primarily by young Natives who sought access to the limited but new wage opportunities available in that town. Village traffic to Bethel by snowmobile or plane in winter and by boat in summer increased.

Villages surrounding Bethel also grew in population. For example, Akiachuk grew from 179 persons in 1950 to 310 persons in 1966. Kwethluk grew from 242 to 375 persons in 1966. Napakiak grew from 139 to 254 in the same period and Napaskiak from 121 to 215. The neighboring communities of Nunapitchuck and Kasigluk on the Johnson River had, by 1969, combined populations of 626.

Bethel's share of the region's population, estimated by Tussing and Arnold to have changed from 7.9 percent in 1950 to almost 13 percent in 1967(1969:33) occurred because economic development focused there. Along with establishment of State and Federal bureaucracies for the region, came a housing fabrication plant and modern homes, establishment of a regional high school with dormitory facilities and a fishprocessing plant.

While an estimated 70 to 80 percent of the male work force could find seasonal work during the summer as commercial fishermen, cannery employees, or as laborers and tradesmen in Bethel's economic boom, no more than 5 percent of working-age Native population were regular wage earners (1969: 38).

Natives were thus marginal to the region's economy and still largely participants in the subsistence economy. Capital received in wage earning was used to purchase new hunting technology (such as snowmachines), technology which substantially reduced the gap between expert hunter and fisherman and non-expert with some consequent secondary influence on social control by old of young.

Transfer payments (especially welfare) went to about a fourth of the Native households (Tussing, Id.).

Thus, while Bethel as town came to have an allure and importance, not uncommon in prompting outmigration from villages by the young, especially villages distant from the town, population increase was also evident in villages surrounding Bethel. Both towns and villages were changing as Eskimo communities from villages of yesteryear.

What had not occurred in the early and mid-1960's was economic development of significance beyond Bethel in the region. Pressure upon the subsistence economy was already marked. Young Native persons experienced the combined uncertainty of the traditional subsistence life-style and an uncertainty of access to the Western job market in Bethel, an uncertainty that was to characterize the rural Alaska situation for another decade.

Accidents and Deaths a Focal Point

For the village leaders to make a connection between Bethel and its liquor and increasing deaths of young people who traveled to and from Bethel was entirely appropriate. Later studies of Native mortality (including homicide and suicide) especially those by Krauss (1977) show a replacement of deaths by infectious diseases with high rates of deaths by accidents, suicide and homicide, far in excess of non-Native population during the 1960-1969 period.²

Village leaders correctly recognized that violent death,

associated with alcohol use, had established itself as a leading cause of mortality with the decrease in infectious diseases.

Translation of an Interest Into a Demand

Friedman (1975) describes legal change as translation of a societal interest into a concrete demand. While village leaders desired to change Bethel's liquor policy, they were not familiar with the process for inducing this change.

They were still dependent upon Bureau of Indian Affairs personnel who advised Eskimos to write town and state officials. State law did not provide for enfranchisement of non-residents of Bethel when the issue of the liquor store was put to a vote.

Villagers also desired but did not receive preventative law enforcement in the villages when requested by village councils.

The 1965 discussion discloses then an important recognition by village leaders of several developments coincident with increased availability of liquor in the region:

1. Population growth in the town and in many nearby villages.

2. Internal migration of young people to Bethel and to villages near Bethel.

3. Increased travel to and from Bethel.

4. An attitude of young people at variance with earlier attitudes toward liquor use, more open ended, more experimental, less concerned with the dangers of alcohol use.

5. An upsurge in violent deaths and accidents associated

with alcohol; an upsurge of arrests in Bethel and in the arrest rate for drunken behavior.

Bethel's impact on the young and through them, the region was apparently not amenable to direct control by the village residents. Its influence was, however, still limited by depressed wage opportunities for Natives in both Bethel and the region, and very limited air transportation and communication with Bethel.³

The legal system of the state had very little to offer village residents by means of support or prevention. A single state trooper still served the region. A lay Eskimo judge resided in Bethel. Higher court judges, prosecutors and public defenders still commuted to Bethel to hold trials. Police jailed drunks in Bethel and kept peace among its summertime tent population. Few villages had their own police; few villages had state magistrates. None had jails. The most active legal force in the village were councils. These councils, however, had not been active traditionally as police mechanisms to fine and jail. Instead, they had acted to confirm pre-established village consensus.

Village leaders had discovered that Bethel could set in motion a change in use of liquor in the villages and outside of Bethel by making it available. Neither state legal options nor police or court activity flowing from Bethel could offset this impact upon village attitudes toward alcohol as they were redefined by young people.

If material opportunities stemmed from economic development centered in Bethel, these new opportunities were offset by an emerging problem of liquor use in the region.

The problems described by the councilmen were set within three specific contexts:

First, Bethel was a more dangerous and noisy place than the villages. Yet villages recognized that alcohol-related conduct in Bethel was there at least subject to direct controls of town police before it got out of hand.

Second, problems of intoxicated persons who traveled by water from Bethel to the villages. Prevention of accidents by these fishermen was difficult since many drank up their liquor before reaching home so as to avoid village sanctions.

Some Bethel arrests were made of villagers before they left the Bethel slough. Still other arrests were made extralegally by the Napakiak policeman, James Willie, upriver from Bethel. Willie's independent action met with resistance from villagers, but he had, in the mid-1960's, the support of his own village council as well as state police in Bethel.

Third, village problems. Councils had learned that they had no state legal basis to keep all liquor out of their villages. According to state law, they were forced to wait to act until misconduct had occurred as a result of alcohol consumption. While intervention after misconduct and not in anticipation of deviance was appropriate to Western police and courts, it had not been the

typical response of Native councils. Village councils typically anticipated serious violence and acted to curb its source.⁴

The logic of traditional village council activity and control would have suggested that a liquor store responsible for setting in motion conduct that resulted in accidents and death should be closed. The logic of the state legal control was that problems on the part of those who drank and misbehaved should be dealt with only after misconduct had occurred. Neither the state nor the rural population had the capacity to act on its logic.

In the next decade, agents of Alaska law in the towns adopted the logic of villagers to alcohol control as they employed protective custody and police transfers to sleep-off centers as well as dry legislation to curb sales of liquor. Most villagers, however, adopted the wait-and-see approach to social deviance of the agents of Alaska law.

Village Council Reaction to the New Rules on Drinking

Some village councils responded to the new rules on alcohol control by directing their village police and citizens to bring complaints to the council.

In Fishnet 2, a Bethel-region village, the council adopted in March, 1964, a rule against making home brew in any person's house without his permission or knowledge.

Yet, problems dealt with more typically were complaints against public and private disorder caused by drink and complaints against minors who consumed liquor. In the latter

cases, the source of liquor was sought and the offender was called before the council.

The village police had no jail facilities and no training.

Below are excerpts from representative council hearings of the period (1964-65). Note that persons brought before the council were asked if the complaint was "true" and not whether his acts violated village rules.

(Case Excerpts)

March 31, 1965

Council Meeting

P.M. read the complaint to B.O. made by city chief police J.J. (about) going into show hall while drinking. He was fined two sled loads of wood for the community hall. He was given ten days to pay his fine. He was told by the city council not to go in public place while drinking.

March 31, 1965

City Council Meeting Time 7:20 P.M.

1. P.M. read the complaint by A.K. city police. Complaint against T.K. getting into L.I.'s house while drunk. Date March 5, 1965.
2. P.M. read the complaint made by C.H. against T.K. going into bath while drunk. Dated March 6, 1965.
3. P.M. ask L.I. and C.H. if the complaint against T.K. if the complaint was true. P.M. ask J.P. and L.I. if the complaint is correct. They stated the complaint was correct.
4. P.M. ask T.K. if he had anything to say. T.K. said he got nothing to say.
5. T.K. was fined on two charges. First offense \$10.00. Second offense \$20.00 for drinking in Public Place. T.K. was given ten days to pay his fine. He said he got no money to pay his fine. He was told to get six loads of wood for the community hall or pay his fine if he got the money inside ten days. T.K. was told by City Council to think of his kids before he starts drinking.

City Council Meeting
April 1, 1964

The first business presented to the Council was a complaint of Mr. and Mrs. G.P. against W.W. J.J., Chief of City Police, read the complaint to the council members; also explained the situation and the state of the complainants. After hearing the evidence, the council ruled out the complaint, since both parties were intoxicated at the time the complaint was made.

The complainant, G.P., was advised against making complaints while intoxicated. When asked whether he wished to make another complaint, he said no but said to warn W.W.

L.I. explained why the complaint was not accepted by the council. D.R. advised W.W. about the dangers of drinking, and the rest of the councilmen did likewise. The case was closed, after both parties shook hands.

(Case was not booked.)

The second business was cases No. 64-4-1 and No. 64-4-2. These two cases were taken together because they were related.

Case No. 64-4-1:

Mrs. T. charged for disorderly conduct in a public by J.J., Chief of City Police. L.I. read the complaint and asked Mrs. T. if it was true. She said it was true. J.J. then [related] the facts and the condition of the offender to the council and went on to explain the conditions and the situation of P.H.'s case which is connected to Mrs. T.'s.

Case No. 64-4-2:

P.H. was also charged of appearing in a public place while drunk by J.J. P.H. admitted his guilt as charged.

After hearing the evidence from both cases, the council charged Mrs. T. and P.H. of Disorderly Conduct in a Public Place.

Both were fined \$10.00 for 1st offense. After words of warning, both cases were closed.

City Council Meeting
April 1, 1964 (cont'd)

The third business was another case brought before the council by J.J., Chief of City Police.

Case No. 64-4-3

Complaint of J.J. against I.P. for appearing in a public place while intoxicated.

L.I. read the complaint and asked the subject if the charge was true. I.P. admitted the truth of the complaint but denied seeing J.J. J.J. related the facts and the condition of I.P. to the council. After hearing the evidence, I.P. was charged of being guilty of appearing in a public place while drunk. He was fined \$10.00 for 1st offense. The case was closed and booked.

To avoid any complications in the files, the council decided to consider all violations of the law as 1st offenses as of today, April 1, 1964.

The next meeting was scheduled for April 3, 1964.

The meeting adjourned at 10:32 p.m.

Police report

April 4, 1964; 10:28 a.m.

C.H. reported that A.M. told C.H. that he was going to make a bang when I came around his place with a 12 guage short gun. He saw two shot gun shells (plastic) on the table with a pump gun 12 gauge on the floor. This was on April 2nd, 1964. 5 p.m. Mr. M was feeling good.

He came to warn me because he was afraid this person might carry out his intentions.

City Council Meeting

April 4, 1964

A case classified as Case No. 64-4-4 was brought before the council for a hearing. C.H. reported that A.M., while intoxicated had threatened to shoot J.J. with a 12 ga. shot gun. The witness, C.H., claims that she saw the gun and the shell in the house of the accused, and heard A. say that he was waiting for a chance to see J.J. After hearing the story and listened to the evidence, the council charged A.M. of being guilty of Misdemeanor and fined \$20.00 for second offense. The enormity of the case caused A.M. to be fined as for a second offense.

*A. was not charged of Felony since he was not in a normal state of mind and he didn't carry out his threat and was never seen with the weapon in his hands.

L.I. and F.K. and D.R. warned and advised A.M. J.J., also, warned A.M. that this is his last chance. With that the case was closed and filed. The meeting adjourned at 1:05 p.m.

October 18, 1966

A.B. came in to us at 9:15 drunk on the evening of October 17. I was sleeping but was awoken when he came in. I got up to see who came in with all that racket, it was A.B. He complained why I always bother his wife. I told him I never bother his wife, except when he's around just to make them laugh. I told him to get out and stay out when he's drunk like that. He got hold of me and beat me up in my house. I wasn't able to get away from him. He broke two window panes also. After he got through with me, he grab my wife telling her he's going to throw her at me, but my wife push him and got away from him. At first he hit me with his fist, I was knocked out. I don't exactly how long he beat me up. When I come to I had enough strength so I got up and stayed away from him, circling the two bedrooms. He fell down and passed out. So I lie down to my bed exhausted. Result of the fight, I was all bruised up in my back and on my left arm. My eyes was closed of swelling.

Sign: AT

Witness: MT
WNJ

City Council meeting -- (no date attached)

1. Mr. and Mrs. C.R. were questioned by the City Council President J.B.C. All the information written corresponds to Mr. R.'s story.
2. J.G. was told to tell his side of story of what happened during the general meeting. He stated that he drank from C.B. and he passed out before he went home. He came to his senses in his house and he passed out again. The next day his wife told him that City Police took him home.
3. City Police was called in to his records on J.G. It was found that this was his 2nd offense. He was given 10 days to pay up since he did not have money at present. Fined \$20.00.
4. It was considered that he broke ordinance #1c.

1-11-65 Meeting open 10:15 p.m. in School house

Meeting with Trooper S.

All council present except M.M. Few general public around.

1. The case against F.L. vs. N.L. was taken care of by Trooper S.

2. Trooper take care of S. and M.A. vs. P.H. and P.Y. for breaking into M.D.'s house, with broken lock, and gave P.Y. 45 days sweeping up the school house floors. P.H. drunk tonite, unable to prove with what intent he entered M.D. house, so can't prosecute, but keep eye on him to see if he cause any trouble. Council to warn him on next meeting.
3. Trooper took care of the case between P.W. vs. A.K. 12-25 (city police) and charged with disorderly conduct and filed informal complaint against P.W. Charged 90 days in jail (suspended).

Drunken Comportment and the Law

The president of the Kwigillingok described then contemporary Eskimo drinking as binge drinking. In a second discussion on liquor problems held a year later a council member from Nunapitchuk referred to Eskimos who drank as persons gone crazy.

From an earlier period when observers of early alcohol use reported indifference or distaste to alcohol by Natives, Natives now viewed the conduct associated with drinking with special alarm.

Were these leaders deluded? Or had they, at this early stage, accepted the white stereotype of "drunken Indian?"

If we assume that the perspective and fears of these councilmen was accurate for the time and place in which they spoke, what developments had occurred in the regions to give rise to this form of drinking behavior as prevalent drinking behavior?

Natives in the Bethel regions experienced the classic historical confrontation between Western prohibitionism, as promoted by the agents of Moravian church and the agents of law, and

Western licentiousness as exemplified by white sourdoughs, fishermen and traders. There was no middle ground demonstrated for liquor use and alcoholic behavior, no significant model for learning to drink with moderation.

In Northern Alaska, whalers introduced both liquor and the outrageous conduct associated with drink prior to the introduction of restraints in the persons of Coast Guard Cutter personnel and teacher-missionaries. The Bethel regions was contacted first by Moravians (and Roman Catholics in the upriver Athabaskan region). Only at the turn of the century did sourdoughs use the Kuskokwim to make a crosscountry passage to mineral deposits. Military personnel and bureaucrats followed. (See Conn, 1981b)

Non-prohibitionists confirmed the worst expectations of prohibitionists. Moravians decried liquor and associated it with all that was dangerous or evil. White bureaucrats concealed their excessive use of alcohol. Military personnel engaged in binge drinking during time off, as did fishermen and fish processors. Such were the conflicting role models thrust before young Natives who learned of Western life in Bethel.

Territorial law, repealed in 1953, prohibited purchase or sale to Natives. But the influence of that law in Bethel had been limited to selective enforcement by marshalls stationed in Bethel, Platinum and Aniak. These cases flowed to U.S. Commissioners who were transformed into district magistrates (justice of the peace) with the coming of statehood in 1959.

Cases from villages surrounding Bethel brought to the U.S. Commissioners were rare. Usual Bethel cases in the 1950's focused upon persons who sold liquor to those Natives or non-Natives on a "blacklist" developed by the local marshall or those upon the "blacklist" who attempted to purchase liquor from the Northern Commercial Company Store or the Dewdrop Inn, a Bethel roadhouse. Out of towners, engaged in Bethel construction, were prosecuted for giving liquor to minor females.

Sentences meted out for drunken behavior by Commissioners, later magistrates, and finally district court judges, were severe. Six months in jail was not uncommon.

But state law's primary function was to reinforce as best it could village justice. Government officials looked to village councils to deal with minor alcohol-related violations of village ordinances. Only when formalization of the relationship between the state and villages was sought, were limits placed on the role of village law in alcohol control.

The failure of state law to adequately reinforce council justice became more evident in the second discussion of liquor and Bethel's primary role as supplier in 1967. Concern of the councilmen had shifted from the dangers of Bethel living to dealing with problems in their own villages.

(Excerpts of 1967 Meeting)

Axel Johnson (of Emmonak) called on Chester Gordon to take the floor. He introduced himself as State Director of the Alcoholic Beverage Control Board. He wants the opinion of anyone present regarding liquor. His job is divided into three parts.

(1) licensing of liquor (2) protection of licensees and the public (3) enforcement. The one problem he pointed out was drinking done by minors. How can liquor be best controlled? Is it best to have a liquor store and let the community derive betterment from the profit or is it better for a bootlegger to derive betterment from the profit? Should the liquor board do something about the retail stores that ship liquor to the villages like in Anchorage and Fairbanks? Mr. Gordon wanted to know the opinion of the surrounding villages of the Bethel Liquor Store.

Kenneth Cleveland from Quinhagak stated, "In our village we have people under 21 that drink, hiding and bringing it into the village. Our job in this drinking problem is that if there is an accident we feel bad and seems like it is our fault as a councilman when something happens. We want to stop this liquor store where they get the liquor from."

It was also stated by James Willie that the village of Napakiak where he is from, is the center of travel from the tundra to Bethel. He has stopped a lot of boats that have been passing while drinking with a boatload of gas barrels, etc. Some of the people from Napakiak and other places do not like him because he is strict with people that drink and travel in boats. Even in some cases, they have threatened to kill him. Mr. Gordon asked Mr. Willie if he has stopped more boats than last year and Mr. Willie replied, yes, about triple the amount of last year. Mr. Gordon asked him where they bought their liquor last year and Mr. Willie said that when young people get a hold of liquor they do not tell who they got it from. Last year shipments of liquor came from Anchorage through RCA.

Mr. Gordon said that he has discovered that these young people get liquor either from home, from persons between the ages of 21 - 26, from winos and taxi cab drivers.

People have talked in this area that maybe if the liquor store was converted to a bar it might be better. These young people now let somebody buy their liquor for them, whereas in a bar they could not do that. Mr. Gordon asked if the liquor store could exercise a little more judgment in selling liquor to someone who might give it to a minor?

Phillip Guy (of Kwethluk) stated that as far as he knew, they do not sell too much liquor to any one person, it is limited. He knows that when a person repeatedly goes back to the liquor store he is refused.

It was pointed out by Herman Neck from Nunapitchuk that whenever a young person is caught drunk they ask for a cop to come out to the village but he does not come. These young people do not respect their councilmen anymore.

Mr. Reader asked if there was any way the liquor store might be forbidden to sell to the residents of another area.

Mr. Gordon replied that if they did that, people objected might bring discrimination charges against the liquor store. It was stated by Willie Alexie from Napakiak that they hear it is hard to close the liquor store. It would be better if it was turned into a bar, then the minors cannot go in there. The people that buy liquor in Bethel, have good behavior while in Bethel, but when they get to their villages, they think they are bigger than the council. It is better if they had a bar and never travel around after drinking. Nick O. Nick stated that people were foolish when they drank. They drink a little and they go crazy. That is why the villages around here do not want the licenses issued. Mr. Gordon assured the people that there will not be a license issued without the people knowing about it. [AVCP 1967:3-4]

Comment:

Eskimo Representatives constantly probed the illusive, seemingly irrational state law system for answers to the liquor problem as they understood it.

They perceived the key to the liquor problem to be the supply available to young men who endangered themselves and others as they traveled from the town to the village and as they traveled into the villages.

The representatives of state law emphasized the restrictions which the law placed on control of alcohol supply and suggested that these would be overcome by prevention at the village level by the council and, secondarily, by state police.

State legal representatives offered no solution to the apparent chain of causation between the liquor store in Bethel and accidents and deaths in the river and the village. Villagers correctly recognized that state law enforcement was not equipped to arrest drunken behavior that resulted in deaths and injury in either the river or tundra surrounding Bethel or in the villages.

Villages, also, did not have Western law apparatus to take up the job of individualized law enforcement of those who broke the law while drunk. They lacked judges, drunk tanks or police.

Perhaps, most importantly, they lacked sufficient legal information to manipulate the law as it existed, to, for example, incorporate their cities, to use zoning ordinances to press for Western legal machinery, to amend state statutes or administrative regulations.

None of the legal representatives seemed prepared to press for changes in the legal process to address the special needs of the region to, for example, enfranchise villagers when Bethel voted on its liquor policy, to either introduce state and village police to enforce state law in that vast environment or, finally, to curb the supply of liquor until adequate legal, medical or alcohol-counseling resources could be imported into the region along with liquor.

The suggestion that Bethel turn from a liquor store to bars reflected the pragmatic assessment of the liquor problem and the limits of the law's operation as the villages perceived it. Bottles would not then be readily available to take back to the villages. The cost of getting drunk would increase.

More than this, however, Bethel could deal with the liquor problems which it had created. It could prosecute bar owners who served liquor to intoxicated persons. Its police could jail persons who were both drunk and dangerous.

Although the debate between advocates of liquor stores and advocates of bars was not a new one in Alaska, the legal dimension of this suggestion is significant. State law was perceived as happening in the town, but not in the villages.

Transcript Continues:

Phillip Guy asked if he knows of any way anyone who can stop the flow of liquor to these areas.

Mr. Gordon stated "No, I do not now know how to stop it. It is coming in through licenses stores, from Anchorage or from bootlegging. You can stop bootlegging, stop the shipments coming in by freight."

Mr. Pete Reader inquired if there was a way either through legislative action or change in the regulations that people in the outlying villages can make their wishes known on the liquor store.

Ray Christiansen (Bethel state representative) replied that he could not answer that at the present time. If we recommend the governor and the next legislature to change some of the laws to help us in this area, he will certainly be willing to go on the Senate floor.

Mr. Gordon said the only way the Alcoholic Beverage Control Board can close the liquor store is when they apply at the end of the year for a license renewal. The board can say the only reason that we close it is violations. The only way we can refuse the license is to say we do not think it is good for the community of Bethel trade area. They would come right back and take it to court. Mr. Gordon said the liquor board needs more authority and more control. One license is authorized if it is in a five mile area with 1500 people. The population of an incorporated city cannot be counted. A change has to be made to throw the incorporated city law into the total trade area. The law now says that if there is a protest against a license the board shall listen only to those residing within two miles. A question raised if whenever a community is starting a liquor store what are the first steps to take. Mr. Gordon replied the first thing that they do is contact the liquor board and find out if the population is there so they can have a license. They have to advertise for 10 days that they are going to apply for a liquor license. They have to advertise in three places, where the liquor store is going to be, in the post office and one in a prominent place in a community. If it is outside incorporated town, they have to get a petition with the signatures with the majority of the people living within one mile of that location. [AVCP, 1967:5]

Comment:

Alcoholic Beverage Control regulations effectively disenfranchised concerned citizens outside of incorporated cities. In this epoch, nearly all incorporated cities were white towns and not native villages. This disenfranchisement continued into the 1970's.

For example, a total of twenty voters in the tiny mining town of Platinum decided to go wet and issue a license in 1976. Deaths from alcohol climbed in its neighbor, Goodnews Bay, a village of 248 population until the 20-person electorate of Platinum, a village of 57 persons, decided to close the liquor store.

Red Devil, another tiny community, determines the liquor supply of all upriver Athabaskan villages, again without control by the majority of the citizens who live in towns connected by air or boat.

Transcript Continues:

A question was asked about the qualifications for voting. Mr. Gordon replied the law says you have to be a resident of the area, anyone that has lived within the state one year and in the area 90 days, and you have to be 19 years of age. If the person was denied to vote, the person can protest to the Magistrate. Someone stated that there are many people around here that do not speak English and were denied when voting came because they could not speak or write.

Betty Aley stated that when a person that cannot write goes to vote, someone that can read and write can go in with him to the booth, explain what the voting is for and that person can vote...[AVCP 1967:5]

Comment:

In the 1967 meeting with the State Director of the Alcohol Beverage Control Board, the gathered village council presidents learned that as non-residents of Bethel, they had little or no legal control over the liquor store.

The brunt of concern by council presidents were persons who bought liquor in Bethel and took it home. What village people could not do, unless supported by the Bethel electorate, was to follow the lead of tribal councils on most Indian reservations after repeal of the federal ban on use of liquor by Indians and promulgate their own ban on liquor. (Dozier 1966:73) There was no reservation. Bethel profited from the liquor store and could hire police from the revenues it generated. The villages could not stop liquor traffic, nor hire police from liquor revenues.

Why did the village leaders seek to stop the liquor store and not seek some limited other legal option? None was offered to them except "the opportunity" to transform councils into ex-officio law enforcement mechanisms with support of state police.

Villagers questioned the capacity or authority of councils to intervene in liquor problems. As Willie Alexie of Napakiak put it, young people who behaved in Bethel thought they were "bigger than the council" when they returned to the village.

Village authority, exercised through the council, was directly challenged by intoxicated young persons. This role of repeated fining or jailing of intoxicated persons, was in fact

inappropriate to councils and to villages.

The Reign of Councils

Village councils among Eskimo groups had taken on the task of translating village consensus into law with the encouragement of teachers and missionaries and, later, with their reorganization as Indian Reorganization Act councils in the 1930's.

Although village councils made ordinances and applied them, the nature of their work was not to enforce norms uniformly or, even, to create and impose law upon village residents. Unlike courts and police, councils required strong village consensus regarding interpersonal conduct. Like courts and police, councils expected that most persons would learn and follow accepted village practice and not require repeated village intervention.

The attention of village councils in normal times could be directed to the exceptional person who failed to abide by village norms. In most cases, this was a person with limited social ties to the village.

A review of earlier council records does not reveal many cases of necessary council intervention into drinking behavior. For example, in hundreds of cases taken up by the Northern village of "Whale" in twenty years of records, no more than a handful deal with liquor. Attention of the council in these cases was focused on persons who had brought or were inclined to bring liquor into the village. The norm of abstinence (with tolerated private consumption of liquor on special occasions) was

established by village and missionary social norms first and only secondarily by village law.

Bethel developed as a source of wages. This induced an increase of traffic between Bethel and the villages of young fishermen and wage earners who were inclined to drink when liquor and money for purchase of liquor were available in the same place. The village consensus underlying council activity did not include a firm consensus about behavior while drunk. Alcohol use became a central issue in the generational tension between older hunters and younger fishermen. It demanded new and even outside intervention that the state was not able to provide.

Explicit support from state and federal authorities for councils became an increasingly important source of council authority when drinking was concerned, because drinkers were not persons to be controlled by reason. Force was necessary.

In 1963, at the second meeting of the AVCP, Fairbanks prosecutor had worked with council presidents to draft ten village rules, to be enforced by councils with the support of state authorities. State prosecutors took these rules to other regions of the state.

Roy Petrotrovich reminded councilmen in 1966 that the rules were laws for the "IRA"⁵ to enforce. Yet councilmen realized that without reinforcement of their work by a state trooper, a person who stood for state authority, this second source of council authority had no strong credibility among young people

increasingly dubious regarding village law as police law.

In short, councils had been transformed into an agent of state legal power in a realm where village consensus had not been firmly established. The mantle of state authority was also suspect because it was measured, ultimately, by trooper activity.

AVCP records of the period are replete with criticism of trooper service and questions regarding the authority of councilmen to intervene actively in drinking behavior as if they were police and not consensus building agents.

(1967 Excerpt)

There was a point brought up about the difficulty of getting a trooper out to the villages. Ray Christiansen [state senator] mentioned that if the people would complain to him he would take this matter up with the Commissioner [of Public Safety].

President Paukan (St. Mary's) mentioned too that sometimes when they call the Trooper he never comes. Ray Christiansen mentioned that they need a letter to the effect of the Trooper and send a copy to the Commissioner [of Public Safety]. Last year when the Commissioner was here a question was asked how to contact the Trooper. He said if it is an emergency to call on the radio and if it is not to write a letter. Paul John stated that the Trooper should inform the village when he will come out then the council would be ready to meet him. Ray Christiansen pointed out that the State Trooper was appropriated more money this year to do more traveling. Kenneth Cleveland asked if a person could take away a bottle from a person before he starts drinking and getting wild. Paul Guy stated that you can take an opened bottle away and pour it out with a witness with you. Henry Evon (of Kwigillingok) said that when a person is drunk they wait until he is sober to fine him. If he is drinking at home they cannot bother him unless he is raising some trouble [AVCP 1967:19].

(1968)

Elias Joseph mentioned that the problem they have with the State Police is that they never come to Alakanuk when called. Kenneth Chase (of Aniak) said that the laws of the villages should be based on the State laws so that the police would come right away when called. Charlie Fitka of Fortuna Ledge said that

on the minor things that happen in the village they should be taken care of instead of calling on the police.

President Paukan said that we will find out how much area the Deputy Magistrates cover. Perhaps the Emmonak Deputy Magistrate can take care of Alakanuk problems. It was agreed upon that we would wait for Nora Guinn to come to the meeting and tell her the problems that we have about the police not coming to the village when called. Henry Evon suggested that if a person has something to say, he should stand up, be recognized first and then talk...

Nora Guinn, District Judge, said that every Deputy Magistrate in the district has access to a State Law book. Anyone could use them all the time but they cannot remove them from the court room. Elias Joseph said that former council members were against penalizing people that break the laws so many times. At the last meeting it was agreed upon to start penalizing the people that break the laws. President Paukan said he was going to call on each Village President and they will mention their problems..." [AVCP 1967:8]

Comment:

When the complaint about trooper services was raised at yet a third meeting of the AVCP, in 1968, Trooper John Malone was called into the meeting.

Transcript Continues:

Malone reported that he was the only trooper from McGrath down to the Coast and further he lacked both a radio system and a secretary. He said the only things that he tried to handle right away were of a criminal nature and emergencies. (AVCP Sept. 1968, P. 9)

Comment:

Mt. Village's representative pointed out that when a person got drunk and was handling a rifle, the trooper was called. But, said the representative, he did not show up.

As Elias Joseph had mentioned, many persons questioned enforcement of council rules on persons who repeatedly broke laws. The recidivists who challenged village council weakened the village council's authority. State law agents did not

appear. Village consensus was not formed in the realm of alcohol and behavior.

While state officials may not have understood his complaint, it was fundamental. The legal authority of the council as well as its authority derived from a village consensus on alcohol use were both suspect. Persons whose behavior demonstrated persistent disrespect for council rules challenged both the village consensus and the authority of the village council in all of its work as a social control agent.

Where councils could not reliably call in state police to remove the offender and thereby assert their own relationships to state legal power and its demands, councils were hard put to form a working consensus on alcohol use based on a firm non-Native legal position.

A review of letters received by the trooper during this period and for some years thereafter, illustrates the kind of working relationship that the councils of many villages attempted to develop with state law enforcement.

Each council attempted to deal with a person who engaged in alcohol related conduct on a number of occasions. These attempts at counseling and fining were described.

The final call for assistance was usually a request for removal of the person from the village. Judge Nora Guinn received requests to "blue ticket" the resident to Bethel. These requests were rarely honored.

In these early deliberations, one village official asked explicitly how persons could be expelled from villages. He was informed that expulsion was illegal. Yet in the years that followed, the legal system was used as one means to expel residents from village to town. Removal to Bethel of recalcitrant residents came to be viewed as the only significant result of calling into play state legal authority. The transformation of village councils from consensus renewing agents within the context of individualized social control to law imposing agents over persons who perceived drunken behavior as an escape from social control enjoyed only limited success.

Out of desperation, one village council arrested the pilot of a liquor laden plane and confiscated the airplane. The trooper responded by releasing the airplane and threatening the councilman with arrest.

When their attorney secured for defendants the right to return to their home village after arrest and release on bail (or their own recognizance) in the early 1970's, villagers complained that persons arrested often returned before the victim (McKenzie: 1976). The utility of the criminal law system as an expulsion system declined. Still Bethel came to be viewed not only as the source of liquor problems which could not be resolved within the village context, but as the appropriate repository for persons whose alcohol-related conduct made them unwelcome in the villages.

By the 1970's Bethel residents included at least twenty

adults who claimed residence in the villages but drank heavily and consistently, and were unlikely to be welcomed if they returned to the villages.

Why was alcohol-related conduct so poorly adaptive to social control by the council acting as ex-officio agent of state law?

The reasons relate to the perception of alcohol-related behavior by both the drinker and the council as intervening agent.

The Problem From a Traditional Perspective

What state officials who encouraged the transformation of councils into fining police agents did not understand was that this recommendation challenged very basic assumptions about the nature of village social control.

So, also, did alcohol use in the villages require basic reinterpretations regarding the individual's responsibility to constrain himself or to intervene rightly or wrongly in the activities of others.

It is not surprising that village leaders, confronted by liquor use among the young, advocated a ban on legal liquor sales in town and prohibition in the villages. It is also not surprising that they sought active intervention of a non-Native policeman to enforce criminal law to remove recalcitrant fellow residents.

State alcohol law and limited state capacity to redress alcohol related conduct outside of the town limits presented a

challenge to small Eskimo societies without parallel in their history of white contact.

To understand the nature of the crisis and to further understand the changes in villages served by Bethel, one must consider, first, the inner logic of traditional Eskimo social control.

Eskimo Law Ways

Eskimo law ways, though variant in its details from group to group, had as its hallmark no dependence upon legal institutions. Instead, individuals were guided by noncoercive social cues. One did not intervene aggressively in the life of another without due consideration to the ongoing relationship with the person offended and without due consideration of his reputation within the group.

Those who challenged this autonomy of others (including leaders) were talked about or ridiculed. These social pressures were powerful weapons where one's group membership and one's ultimate survival were at stake.

This inner logic of Eskimo law ways was meaningful for the Eskimo person who contemplated aggression upon his neighbor. It has also influenced those who were delegated the responsibility to intercede in the problems of other. Finally, it influenced the character of intervention.

Eskimo village councils drew upon the tradition of the Kashim, the men's sanctuary and ceremonial center common to many

Eskimo villages. In that place, elders would counsel young people without singling out specific young people for punishment. Councils were formed by and drew upon contacts with non-Native authority - the teachers, the missionaries, the Bureau of Indian Affairs, and finally support lent by territorial and state officialdom.

But those who saw in village council activity kinds of tribal police courts were somewhat misled.

Council techniques were originally not explicitly those of Western courts. They did not meet merely to assess innocence and guilt according to preset rules and to punish with fines and jail sentences.

Council members were as grounded in the precept of limited or even non-intervention in the affairs of others as was the typical villager.

John Honigmann wrote, "By themselves, Eskimos leave it largely to individuals to recognize when they have exceeded limits of permissible behavior. Eskimos rely heavily on shame or guilt to signal that they have done wrong or merited disapproval" (Honigmann and Honigmann, 1965:242).

As a practical matter, then, council techniques were calculatedly cautious and non-coercive. Persons asked to appear before Eskimo village councils and bystanders both had to be persuaded that council intervention was logical and appropriate. Councils

did not enjoy the automatic, unquestionable authority behind badges of Western authority. They were, first, fellow villagers. Councils had to develop a clear, rationale for intervention and for punishment, if merited, on a case-by-case basis.

This basis for authority was developed in two ways. One approach was to act as the agent of territorial and later police or, put another way, as a buffer between direct intervention by Western law, and the citizenry. The second approach was to communicate village norms to the deviant so as to seek, as representatives of the village, an understanding with the deviant regarding appropriate behavior in the village.

To the extent that a council represented explicitly outside authority, it was capable of meting out punishment without providing the deviant and the community with a logical basis for intervention in the conduct of another.

Such a posture was hard to achieve for village councils. One might view the development of village rules, based on state law, in 1963 as an attempt to clothe councils with a very limited mantle of external authority. When councils complained that police did not come when called by the council or did not consult the council when they entered the village, the underlying message was that outside authority undercut this important source of derived authority and this important village rationale for council intervention.

Village officials discovered that the substantive law

regarding alcohol control prohibited the traditional mainstay of alcohol control in the village, to wit, local prohibition of liquor use in the village. What it offered to village councils was a set of statutes and regulations developed on the assumption that liquor use by adults was the norm and, further, that deviant behavior an exception to be checked by police action.

The logic of state law was so at variance with the historical message of teachers, missionaries and territorial law enforcement that village councils found their role as social control agents to be sharply limited and even foreclosed by what had previously been an important collaborative arrangement between state and local "legal levels." (Collier: 1973)

This problem of collaboration was one that proved to be without end. For while traveling state officials or field operatives, hard pressed to respond to all village problems, advised villagers to enforce their "own laws," higher state officials had set about constructing a state legal system which, it presumed, was the only legitimate legal system.

Unlike many other colonial regimes where local law and national law officially interact and efficiently divide minor and major disputes, no such explicit allocation of state authority to village councils has occurred since territorial days.⁶ This meant that villages without duly appointed judges or lay magistrates were officially presumed by state officials to be without law. What councils did and continue to accomplish to supplement state legal process was viewed as extralegal or even,

illegal, much to the chagrin of village councils challenged by strangers of young people for their acts.

Where the state nominated village residents to act as state magistrates, trained residents as village police and built jails and courthouses in small villages, it introduced a system which was expected to deliver and impose state law in a Western fashion in the villages. Replacement of local law with state law is far from complete. Many villages still have neither police, nor magistrate nor legal advisor nor a set of state laws.

The second basis for intervention - making intervention logical - required a stylistic approach for village councils substantially at variance with courts.

Council intervention was highly selective. The guilt of deviants who appeared before the council was assured by investigation prior to inviting the deviant to appear. Councils isolated and dealt with those persons not as likely to be amenable to other more important forms of village social control. Social ostracism was a method of non-intervention of far more important influence than council process or even intervention by the trooper. Thus, for persons with roots in the village, and with a desire to remain there and economic and social survival rooted in continuing good relations with village people, the council served merely as a backstop to other forms of non-legal social control.

The village council dealt with problems which had escaped ongoing and more pervasive controls, controls that checked indi-

viduals without necessary intervention of others, be they police or merely relatives or neighbors.

Those strangers or persons with limited reasons to maintain a consensus with villagers were usually addressed on several occasions. Deviants were persuaded, educated, counseled and warned regarding village norms. Repeated offenders were fined or put to work, but only after both offender and the community were satisfied that the offender had broken faith with village norms. An attempt was made to "blue ticket" or expel persons who proved repeatedly that they would not abide with village norms.

While the norm of non-intervention into the conduct of others placed special checks upon the operating authority of councils, village councils had a special kind of knowledge that made their selection of deviants far more accurate than the mechanistic selection of deviants by police.

Village council members knew their constituency and the families of constituents. As a mechanism to backstop other forms of social control, directed through families and communities, village councils knew who was in need of special attention and who was not.

Village councils also had the capacity to see serious problems developing and to recognize their chain of causation. Problems were perceived, accurately, as problems that evolved from and that influenced ongoing relationships.

Councils then were adept at constructing approaches to inte-

vention that focused not merely upon punishment for past acts, but on the deviants' stake in preserving ongoing relationships in the village.

As a legal mechanism, the village council was neatly balanced, between noninstitutionalized methods of social control, and the apparently unchallengeable and often unpredictable intervention of outside authority, police authority meted out without concern for village opinion, village reputation or ongoing relationships.

Alcohol-related conduct, social and economic events then transforming villages as communities within the Bethel region, and the demands made upon councils to act more explicitly as mechanistic (though ex-officio) agents of state police authority, each worked severe hardships upon village councils as central fixtures of village social control.

The Village Council and Its Social Reality

To a far greater extent than Alaska police, courts or attorneys, village council activity mirrored closely social the reality of the village.

As we have seen, the increased supply of liquor available to villagers occurred coincidentally with a breakdown in the isolation of the village and its social realm from the larger realm of the region. The most extreme penalty of village justice, expulsion from the village and its network of social and economic relationships, was substantially muted by the opportunities

available to villagers to migrate to other villages or, even, to break free of village social control by migrating into the town where each person could become a "stranger among strangers."

The classic traditional response to unceasing patterns of aggression by bullies - a decision by individuals to execute the offender who would not remove himself - was eliminated by Western legal authority.

Because the Eskimo legal process was fundamentally rational and logical, its intervention into the drinking activities of peers, required that it flow from the developed logic of Eskimos regarding drinking and drunken comportment.

The logic for dealing with liquor and for assessing responsibility for drunken behavior was developed by rural Eskimos outside of the realm of council activity in the context of daily living.

Social "truths" had emerged from Eskimo contact with Western law givers, missionaries and liquor and, more generally, from white contact.

First, some normally reasonable Eskimos who drank, became unreasonable and dangerous.

Perhaps the first Western statement of this proposition was that of Captain Healy of the Revenue Cutter Corwin:

Naturally peaceful, of a kindly and hospitable disposition and seldom, if ever, quarrelsome when sober, under the influence of a small quantity of liquor they (Eskimos) became demonic. The most brutal fights occur

when they are in this condition. Their long, sharp hunting knives make frightful wounds, and their rifles are used without stint and often with deadly effect. In former years our surgeon has often been called upon to dress these wounds on the bodies of several (Natives). I have seen marks of bullet wounds received in these drunken brawls, and the Omalik of the Diomedes, a comparatively young man, bears three deep scars which he proudly told me he had received in fights, and as proudly boasted of having killed two men while drunk. (Healy, 1887:17-18)

Healy's association of liquor use with violence by Eskimos in his report to Congress was self-serving. His voyages were funded to suppress cartridge sales and liquor traffic among the Natives, the first of many federal appropriations directed at liquor suppression among the Native population with the support of prohibitionist groups.

The message conveyed unrelentingly by the law as written and the law as implemented in white communities throughout Alaska's history was that drinking Natives should be jailed before they endangered themselves or others. After 1953, however, the law did not make drinking by Alaska Natives illegal.

This anticipated dangerous drunken behaviour did not always comport with observed reality by other ethnographers. Gubser wrote that coast Alaska Eskimos merely became happy when drunk (Gubser, 1965:12). The Takamiut, in studies by Graburn, had tried liquor, but did not like it (1969:186). Honigmann explored the early introduction of legal drinking among Canadian Eskimos in Frobisher Bay. While Eskimo informants described an association between violent conduct and drinking, Honigmann (1965:203) found no clear association between the two in the early days of

Frobisher Bay. Yet in that town environment his observation could be challenged. Canadian RCMP's had already begun to arrest all public drunks before their conduct became aggressive (1965:13).

What was the origin, then, of this association between drinking and uncontrolled aggression? MacAndrew and Edgerton (1969) argue persuasively that beyond its universal physical impact upon psychomotor skills, the behavior associated with alcohol use is fundamentally that which any society has come to expect from one who drinks (1969:88). They argue in Drunken Comportment that the state of being drunk is the social occasion in which members of some cultures take "time out" from the normative demands of their culture (1969:88).

Among whites they encountered in the Arctic, Eskimos and other Alaska Natives had numerous opportunities to learn and confirm this association between drinking and open-ended aggression. The drinking habits of whites in the Arctic often involved rapid consumption of existing supplies and violent swings in personalities from sober to drunk to sober again.

Military men, sourdoughs, whaling crews and other foreigners used liquor as an escape valve for Arctic living. Yet, when sober, they went about their normal activities with little or no apparent loss of status.

This model of drunken comportment was conveyed along with liquor sold to Natives and confirmed by missionaries and representatives of law who reacted to drunken Natives as if they were

all likely to be dangerous and crazy.

Legal and social constraints upon Natives from the inception of Western law in the bush both validated the association between antisocial behavior and liquor and served to restrict drinking by Natives to short-term and public binge drinking.

One could argue, for example, that constraints on drinking behavior (but not on sale) evident in Bethel in the mid-1960's and the prospect of constraints on drinking behavior in home villages contributed to very dangerous drinking on the river that James Willie of Napakiak sought to restrain, much to his personal peril.

Social norms had evolved to explain and place drunken comportment in the town and villages. In capsulized fashion, they were these:

First, that a drunken villager and a sober villager were perceived two separate persons. The conduct of a drunken person could not be ascribed to his known sober self. To place the responsibility upon a sober villager for what he did while intoxicated would be to undeservedly stain his social reputation, a reputation based on his behavior while sober.

Drunken behavior challenged the basis of the reasoned village council approach to social deviance. If the community did not blame a sober person for the acts of his drunken separate self, how then could a village council counsel or punish a person for those same acts?

The focus of the council's blame, logically, came to rest on the source of the liquor, be that source Bethel or the person who transported the liquor into the village.

A second social norm firmly rooted in Eskimo experience was that a person was not expected to remember what he did or why he did it when drunk. Village councils could not review acts of conduct over which a sober person had no recollection, nor could they fairly assess blame for those acts. The logic of repeated fines could and was questioned. Fines were not logical. The fining agent and not the person fined was made suspect by his unwarranted intervention into the business of a fellow-villager.

Third, the villages recognized that unlike pathological bullies or crazy persons, drunken behavior was temporary misbehavior by a person who was usually well behaved. A sober villager returned immediately to the fold of the village social consensus regarding conduct, appropriate and inappropriate without council intervention. But for alcohol, he was above reproach.

Fourth, the decision to drink was not per se a socially disapproved act which merited intervention. It was an individual decision that effectively shifted the responsibility for making rational decisions to others. Thus, fellow villagers could join the drinking villager by sharing his liquor supply or retreat from the scene in order to avoid him. Control of drinkers required special authority in the person who sought to control a fellow villager.

Western law and its agents were prepared to intercede and jail drinkers. This intervention may not have been logical. It might leave in its wake hard feelings when the drunk sobered up. But this was, after all, the developed role of town police, liquor suppression officers, territorial police and state troopers after them. They were, after all, non-Eskimos, powerful, and free of constraints placed upon councilmen who lived and worked with the persons they confronted, their families and their friends.

However, AVCP presidents recognized that non-Native police were not prepared to extend their reaction regularly to Native drinking beyond the boundaries of towns.

Given these serious social constraints upon dealing with drunken behavior, how could a council, sustained in part by its allegiance to a shared perspective regarding individual conduct, deal with drunken behavior? How could it engage the deviant and suggest that his conduct deserved special punishment when his conduct was universally viewed as emerging from a bottle?

In earlier days, village councils, supported by teachers and missionaries, by territorial law where operative, and, indirectly by limited opportunities to purchase liquor for transport to the village, could focus on possession of liquor within the village, not on liquor-related conduct. By the mid-1960's, however, liquor traffic became a fixture of regional traffic. State law was not consistent in its support of liquor bans in the villages. It had legalized private use and possession of liquor. Further,

a younger generation discovered that drunken comportment provided "time out" from dealing with demands of both white and Native society.

Although drinking was known to occur in Southwestern villages since the turn of the century (e.g., the private drinking parties of older men that Oswalt (1963) attended in Napaskiak when he was finally assimilated), the problem of alcohol traffic and consumption which village leaders confronted in their discussions with state officials was of an entirely new dimension. It was as open-ended as the availability of liquor was open-ended. A social consensus, especially one that restricted universally individual rights to possess, use and share liquor, was hard to articulate and confirm through council action. State law agents provided no direct support for suppressing liquor use.

The 1970's - The Town and Its Satellites in the Region

The late 1960's and the first seven years of the 1970's have signaled a variety of social changes in the villages. Perhaps the most significant characteristic of changes in population, economic development and, even in further articulation of the state, town and village legal process is the remarkable lack of uniformity in the results upon village life in villages scattered throughout the region.

Villages, or, more specifically, clusters of villages, appear to have gone their separate ways in their response to alcohol problems. While state and town policy regarding alcohol control may have implied some uniform concern for the outlying villages,

the impact of policy change and practice has not been uniform.

Upriver Athabascan Villages

Development of the upriver villages, among them Holy Cross, Shungnak, Grayling and Anvik, has been at variance with Eskimo village development for some time. This region fell under the charge of Catholic missionaries. With the construction of a major school in Holy Cross, near the turn of the century, Athabascans underwent a process of Westernization without precedent in villages tutored by Moravians, Presbyterians or Russian Orthodox teacher-missionaries.

Unlike Eskimos, Athabascans traditionally had a carefully developed system of chiefdoms and lineage. Disputes were resolved through the extended family and through the Chief system (Conn and Hippler, 1972).

Traditional authority was driven under by the Catholic missionaries. But in a startling policy reversal in 1969, the Catholic authorities departed Holy Cross for another Alaskan location.

The upriver region has been increasingly marginalized by the region's development and by the orientation of government service to its Eskimo populations.

Changes in Bethel's policy toward liquor use and distribution have had little or no impact upon the upriver villages. Migration of upriver Athabascans into this Yupik town have been extremely limited. Few were arrested by Bethel town police or

were clients of the sleep-off center. Village council development was not evident in these Athabascan villages. Neither has been introduction of Western law figures such as magistrates or police.

Of all villages in the region, state police service was most deficient for upriver villages. Only in 1978 was a trooper placed in Aniak to serve the villages (after the post was abolished in the late 1960's).

The population of these upriver villages began to decline in the 1970's. Economic development has been stunted. However, trooper arrests (with removal to Bethel) remained the highest in the region. So, also, have serious accidents climbed in the upriver villages. Upriver villages have neither traditional nor Western law services of any significance to deal with minor disputes. Liquor use is uncontrolled.

What is available to these villages is a legal source of liquor. The tiny white mining town of Red Devil is the only legal source of liquor in the region. Purchasers charter or fly commercially to Red Devil and return to their own villages to drink.

The upriver villages formed then one end of a spectrum of liquor policy in the region. Serious accident and trooper arrest rates on serious charges were extreme throughout the 1970's. Legal development in the region did not reach these villages. Access to legal liquor (supplemented by bootleg liquor) remained

constant and high.

The Coastal Villages

On the other end of the spectrum are several "coastal" Eskimo villages. They, also, have seen very little change as a result of changes in state or town policy regarding liquor use.

As in the case of upriver Athabascan villages, statistics drawn from police booking sheets for the five year period show few Bethel arrests, few sleep-off center contacts, and no correlation between serious accident rates and Bethel's decision to be wet from 1971-73 or dry thereafter.

Unlike the Athabascan villages, however, trooper arrests have been extremely infrequent. Serious accident rates have not climbed rapidly or shown any correlation to Bethel accident rates.

This cluster of villages was able to maintain a highly restrictive internal policy on liquor use and possession until 1976-77. In one village, for example, council members were said to regularly go through trash containers to seek evidence of liquor use or consumption. Moravian influence is strong in this cluster of villages. Also, drinkers with serious alcohol problems have, according to sleep-off center and police records, apparently migrated (or have been expelled) to Bethel. The populations of each village stabilized or were slightly reduced by outmigration.

Although the coastal villages share the dominant Yupik

culture and are relatively closer to Bethel in air miles than Athabascan villages and have had relatively frequent air service between Bethel and the villages, the quality of that air service has been markedly deficient throughout the period of study until its closing years.

In a 1973 air transportation hearing sponsored by the AVCP and attended by representatives of the Civil Aeronautics Board and Alaska Transportation Commission, complaints regarding Wien Airline's inability to fly on schedule, delays in freight shipment were widespread but especially detailed from the coastal villages where alternative means of transportation to Bethel were less available. (Appendix 1)

The testimony generated at the 1973 hearing, during the epoch when Bethel bars and its liquor store sold liquor legally, suggests that inferior air transportation substantially reduced the opportunity of some villages, but not all villages, to purchase liquor in Bethel or order from cities beyond Bethel.

The specific problem of air service in the epoch was created when the certified carrier contracted its air routes to small charter outfits in order to shift its own equipment and personnel to the Trans-Alaska Pipeline project.

Shipments of liquor which travel into Bethel on Wien's carriers are stored under lock and key in the Bethel terminal. Villagers report that liquor is given low priority. One unfortunate consequence of this is that liquor shipments build up and

reach a village all at once.

How relevant to the coastal villages has been their markedly more severe problems with scheduled air transportation coupled with fewer options to obtain goods in some other fashion or to travel to and from town to village? This question cannot be answered without study of the relationship between this cluster and town during a period outside of the bounds of this study.

It seems fair to conclude that the same deficient air service which hampered living in the village in many basic ways, afforded coastal villages an advantage when liquor problems were concerned. Yet more relevant than the quality of air service was the village's propensity to define and act on a restrictive liquor policy.

That a community consensus regarding liquor was established, over and above problems with passenger service and freight, seems evident when one observes that even when villagers from this cluster of communities did migrate to Bethel during fishing season, contacts with town police and the treatment center were extremely insignificant.

As the testimony indicated, weather remained a continuing problem in providing scheduled air service. Changes in the level of contacts of many villages including coastal villages, do seem to be influenced by the weather.

No accurate comparison of the influence of air service, good and bad, would in fact emerge from a comparison of the coastal

villages in the period of study with a later epoch. Other changes have intruded along with improved air service.

For example, a regional school has been built in one of the larger villages in the cluster changing the year-round population configuration. In the 1975-77 period when Bethel had a permanent district attorney, his only correspondence from village councils regarding drugs or liquor came from these same coastal villages, as they confronted at a rather late date the problem of youth and drugs.

Economic development and transportation are both then relevant factors in drawing the town and village together in matters related to liquor control.

Migration to and from the villages is not entirely dependent on air transportation or economic means either in the village or in the town. Villagers receive opportunities to travel to Bethel for a variety of meetings and workshops.

Twice yearly AVCP meetings draw in village leaders. So also does the Yukon-Kuskokwim fair attract villagers. PHS patients receive tickets to the hospital. Witnesses and jurors are paid to come to Bethel.

The villages of Chevak and Emmonak represent examples of yet a third relationship with Bethel. Each village has drawn into its environment important new building projects and economic opportunities.

Emmonak, near the mouth of the Yukon river, has a cooperative fish processing plant. The plant and a private out-of-state operation attract many non-villagers to Emmonak during fishing season. Emmonak's population, like Bethel's, doubled during the 1970's. Its residents look to Bethel for less in the way of economic opportunities. They have also shifted their drinking away from Bethel.

Similarly, Chevak has received major grants to construct public buildings and engage in other forms of economic development. Its citizens charter to Red Devil for liquor and are not dependent upon legal or illegal sources of liquor in Bethel.

Suburban Villages

A final category of villages are those with relatively easy access to Bethel throughout the year, and no significant economic development other than that gained through their continuing relationship to Bethel. These villages show slow population growth in the 1970's or simply stagnation.

Taken as a whole, the suburban villages have greater access to state legal services based in Bethel. Villagers from the suburban villages have, however, significantly fewer contacts with troopers for serious law violations and significantly higher contacts with Bethel police and with the sleep-off center than upriver or coastal villages.

Clusters of villages, then, have entirely different sets of relationships to Bethel, its resources, and its liquor supply.

This variation in relationships has, as will be discussed, significant impact on the relevance of legal control strategies initiated by town officials and police or state officials in the town. Further, it appears that the posture of the town-village relationship is capable of influence by matters non-legal to a level far greater than legal.

This is not to say that differing approaches to liquor in the town have no impact on villages. What is significant is that impact is dependent upon more than the legal posture. The role of law is merely one aspect of a larger picture.

Development of the law in Bethel

Bethel's relevance as a source of Western police services, judicial inquiry and institutionalization and the town's position on alcohol has varied throughout the 1970's.

State Service

As the AVCP minutes indicated, a single trooper served the 57 village Bethel region in the 1960's. By the late 1970's, this situation had improved. The Bethel detachment had six troopers. Eskimo constables were stationed in St. Mary's and Upriver in Aniak.

Along with an improvement in trooper staffing, the Department of Public Safety trained village police, locally appointed and hired, village residents. Many Eskimo villages now have resident village constables.

Nine villages in the region have magistrates appointed by the

state. District Court Judge Nora Guinn retired and was replaced by an ex-legal services attorney, married to an Eskimo from Nunapitchuk, as a superior court judge in 1976.

Service by attorneys has also improved. In the early 1970's a legal services attorney was the town's sole resident practitioner. Public defenders, prosecutors and superior court judges flew into town for hearings and dispatched most criminal cases in rounds of plea bargaining before the Friday airplane.

With the appointment of Superior Court Judge Cooke in 1976 and the establishment of a Bethel service area by the state court system, the Public Defender Agency and Department of Law established resident offices. The work of the district attorney from 1976 to 1977 was especially influential in the formulation of a liquor policy for the region.

With the development of a permanent professional court system in Bethel, participation by townspeople and villagers in the legal process increased. Jurors were drawn from the 15 mile radius surrounding Bethel. On occasion, arraignments and trials were held in outlying villages.

Town Policy

From 1970 to 1973 Bethel was wet. Its liquor store and sales taxes generated from the operation of two bars in the city made substantial contributions to the city treasury.

From 1974 to the end of the study period in 1977, Bethel voted dry. Traffic in liquor sales shifted to bootleggers.

Alcohol Treatment Facilities.

When the state legislature decriminalized drunk in public in 1972, it established the Office of Alcoholism and gave life to the treatment perspective regarding alcohol control.

One result of this was the subsidization of a sleep-off center in Bethel beginning in 1973. The sleep-off center operated from 1973 until the end of the study, with the significant exception of the summer of 1975. The interplay of jail and sleep-off center for mechanisms for alcohol control will be analyzed with particular focus on calendar year 1977.

Village Alcohol Control - The Wet Years in Bethel (1970-1973)

AVCP meetings and a statewide conference on bush justice, held in 1971, generated interest in training village constables in order to meet village requests for reliable police service to handle alcohol-related conduct.

The Alaska State Troopers recognized that the problem of introducing Western legal process involved more than the training of individual village members as police. (See Angell: 1978)

In its 1972 grant application to LEAA, the Department of Public Safety emphasized that village councils as well as police would have to receive legal education if village legal systems were to flourish. (Angell, 1978:9)

Councils and not courts, the Department reasoned, would provide the necessary follow-through for local police action in most rural villages.⁷

The 1972 program trained 126 policemen from 82 villages in regional workshops. In addition, troopers on location in bush locations made follow-up visits to villages that had sent constables for training, both to evaluate constable work and to educate village councils to Western approaches to law enforcement. (Village Police Training Annual Report:1972, hereinafter 1972 Report)

Reports of village police activity gleaned from the training program demonstrated the continued relevance of councils to alcohol control in village Alaska. Investigators also discovered that police handled law violations independently of court or council follow-through.

The project director reported in 1972 that court action occurred in 63 cases and council action on 171 cases. The report noted, "The council has levied \$1,835.00 in fines and 38 days in jail time. In almost every case, days of work satisfied council sentences." (W. Nix, 1972: 2)

One hundred and fifty-one misdemeanors were handled by the village police without council or court action. (1972 Report, 1)

A close inspection of reports from the troopers demonstrated that where councils were strong, village police were able to carry out their work. Where councils were weak, village police often succumbed to drink or resigned their positions.

The Bethel Region

Upriver Athabascan villages, "suburban" villages readily

accessible to Bethel by land, water and air transportation (the suburban villages) and coastal Eskimo villages 40 - 95 miles southwest of Bethel formed three distinguishable clusters in their acceptance and retention of village constables and in the level of legal activity undertaken in each place during this early 1970 period when the town of Bethel sold liquor through two bars and a community store.

Suburban Villages

In Kwethluk, a 433 person village six miles east of Bethel, the visiting trooper reported that T.M., "though limited due to education and a lack of understanding of the English language, did a good job." They continued, "Kwethluk's strong Council has made this easier by handling most minor crimes by Council action, with major problems being handled by the Alaska State Troopers." (1972 Report, 10)

During a three month 1972 reporting period, village police took 18 drunk in public cases, 3 drunk in private, two larceny, two obscene language and two disorderly conduct cases to the village council.

The council levied warnings and fines from 50 to 150 dollars. (Id.)

In Napakiak, a 298 person village, 15 miles west of Bethel, constable J.W. obtained a building which he converted into a small jail that ultimately housed 134 persons. No council action was reported in these jailings of persons who passed through the

village on their way home to lower villages after drinking in Bethel. Residents, however, were taken to the Council and warned, fined or jailed depending upon the number of times they had been arrested.

All suburban villages did not integrate village police into their legal process. For example, the troopers reported that P.C., village policeman from Napaskiak, had never worked after attending the training.

"Napaskiak has (a) fairly high crime rate and their Council is very weak, requesting a Trooper for very minor violations which could be handled within the village." (1972 Report, 20)

And all village police were, themselves, not prepared to take on the task of being the single visible fixture of state law in the village.

C.M., trainee from Lower Kalskag, took basic and advanced training in policework. "He did a good job for approximately one and a half years, then became drunk one night in January and shot a man with a service revolver and was arrested. J.C. from the same village served as village policeman for a month at which time he got drunk one night and assaulted a man and was arrested and has not worked since then." (1972 Report, 11)

Upriver Villages

Upriver villages fared far worse than suburban villages. The Crooked Creek trainee (population 54, 145 miles east of Bethel) quit his job due to lack of pay. The constable from Sleetmute

(population 106, 170 miles east of Bethel) handled no cases, due to his "lack of initiative (and) due to the fact that the village has a very weak council." (1972 Report, 12)

The Grayling trainee (population 97, 160 miles north of Bethel) was fired by the Council who stated he was doing nothing (1972 report, 12). The Shageluk trainee (population 157, 150 miles north of Bethel) cut down the crime problem, but in Holy Cross (population 187, 120 miles north of Bethel), trainee J.A. "admitted he was scared to do anything on numerous occasions, due to the violent nature of the people." He resigned. Trainee D.W. "admits that when it looks like there may be violence in the village, he goes upriver and stays until it is over or the Trooper arrives to investigate the results of whatever violence took place." (1972 Report, 13) Holy Cross's council was reported to be very weak and one that gave little support to its police.

Coastal Villages

Few coastal villages reported problems for the policeman to handle. Kongiganak (population 180, 68 miles south of Bethel) reported on two minor problems, loose dogs (which the trainee shot) and a road sign destroyed. No drinking problems were reported for the first six months of 1973 (1972 Report, 18).

The 353 resident village of Kipnuk, 95 miles southwest of Bethel, reported no cases of police activity from its trainee. "His ability is hard to evaluate (said the report) due to the fact there has been no reported problem there in at least a year

and a half. The village is fairly large and it is unknown why there seems to be no crime, unless his influence and being there affected this" (1972 Report, 17-18).

The single Eskimo village where violence was reportedly high was Hooper Bay (population 558, 155 miles west of Bethel). One trainee was found to have an extreme drinking problem. The council recommended that he not attend advanced training and he resigned. The second trainee reported that he received very little help from the Council and he was afraid to do much on many occasions due to inadequate equipment and size sufficient to defend himself in violent situations (1972 Report, 16).

Case reports for the village indicate six arrests for assault and battery, four for disorderly conduct, one arrest for furnishing liquor to a minor, one for minor consuming, one arrest for larceny and one for drunk in public. Short jail sentences (from 8 - 45 days) from the local magistrate and Bethel district court resulted in eight cases with warnings by the police in the rest.

Overall, lack of education, and lack of pay plagued this initial attempt to introduce alcohol control by village police into the villages. But of underlying significance was the level of problems encountered by village police. These problems ran the gamut from severe problems in upriver villages and Hooper Bay to virtually no problems at all in a cluster of coastal Eskimo villages.

Where the police were most effective, they found support in strong councils. The councils, in turn, were prepared to deal with alcohol-related conduct before it had turned violent because these communities were also prepared to do so. Both the councils and police were capable of intervening while problems were still minor ones.

What rationale developed to allow for successful intervention into the drinking behavior of other persons? It appears that policing at the village level was successful where both constables and councils shared with the community - both drinkers and non-drinkers - a belief that intervention before violence occurred was appropriate.

Without this shared attitude, the Native policeman was required to endure violent responses to his new role without reinforcement by village councils.

In upriver villages and in Hooper Bay, this shared attitude was not present. Encounters between police and citizens were often violent. In suburban villages with strong councils, police could intercede and constrain drinking persons.

Did this developed attitude toward alcohol control fly in the face of traditional attitudes regarding intervention into the business of another?

It did not, because it developed from the same perceived separation of the drunk and sober person into two distinct individuals. Just as the drinking person could anticipate that he

would not be blamed for his acts while intoxicated so, also, could the policeman deal with the intoxicated person in a way that he would not deal with that same person while sober without being blamed when he sobered up.

But what of punishments that followed from village councils? This response was made logical and appropriate because village councils used their forums not merely to fine or jail, but also to discuss with defendants the probable consequences of their drinking behavior (Hippler and Conn, 1975). Although state law, in its tolerance of alcohol traffic, was seemingly blind to the links between liquor use and violence, the spelling out of probable consequences was very much the substance of council hearings. Fines and (to a limited extent) jail terms were, finally, symbolic connections between the council system and the state system of justice that theoretically supported police and council activity.

A final source of support for village alcohol control, where it functioned with village police, was town activity. What villages attempted to do, with the direct support of state police, was to emulate alcohol control of towns, experienced by any villager who drank in public in Bethel.

In short, some suburban villages were able to develop a combined approach of council and police reaction to alcohol problems that had its logic both in town legal policy and in prevalent perceptions of alcohol-induced behavior that had developed within the Eskimo culture.

It is not surprising that for many villages, this new direction in alcohol control was hard or even impossible to carry out. It required, first, a policing role by a fellow resident new to village experience. It required some re-definition of council activity in a realm of problems that councils had been able to avoid in an earlier period by excluding liquor from their villages. But it is important to recognize that many elements of earlier approaches to deviance were retained.

The village process of policing was personalized in a way that town policies were not. For example, council officers who drank were subjected to very severe punishment. Also, because they were council members, the approach was targeted to persons who had problems when drinking and not to every person who drank. Persons arrested were not viewed as mere drunks but as whole personalities. It could be argued that the flavor of council activity was closer to that of alcohol counselors of another era than of courts.

District Court Judge Guinn of Bethel recognized this personalized aspect of council justice. She often sought to involve councils in the disposition hearings of defendants brought to her court from the villages (Guinn interview, 1978). Many state police also recognized this aspect of council justice and worked with village councils on village problems.

And what of the coastal villages where no problems were apparent to village police or troopers? These villages were still capable of approaching alcohol-related problems at their

point of origin by discouraging possession and use of liquor by residents both in the villages and in town, even without support of Alaska law.

One can argue that a combination of Moravian influence, transportation difficulties and more general lack of contact with Bethel economic and social life assisted in this process. Whatever the reason, these coastal villages were not dependent upon Alaska law or its agents, be they troopers or village police. They did not have to compromise their original position on alcohol use as did villages closer to Bethel. Not until the late stages of the 1970's were these villages forced to seek legal assistance for drug and alcohol problems and come to grips with the limits placed upon them by Alaska law.

Bethel Police Practice

Bethel police employed different practices to control drinking behavior in their town. Practices shifted from year to year. What has been consistent is the practice of constraining persons who drank in public or possessed liquor in public by either holding them overnight in the jail or transporting them to a sleep-off (treatment) center.

Wet Years

1971

In 1971 Bethel police arrested persons for being drunk in public but employed a state sanctioned policy of allowing defendants to "waive" their right to a judicial appearance after spending a night in jail. Protective custody was used only for

potential suicides or mental cases.

Lodging was provided to town and village women who wanted to escape bad drinking situations in the permanent or semipermanent dwellings during fishing season.

The city drunk-in-public ordinance was used with fines of \$25.00 the common result. By late summer a small sleep-off center was available. Arrests usually occurred at a local bar, the Bethel Marina, or the sleep-off center itself, when persons annoyed other people.

1972

In 1972 the direction of alcohol control shifted. Arrests for disorderly conduct were common. Sentences were usually suspended. The DIP-waiver policy was abandoned by early August. The state decriminalized drunk in public (and private) in October, 1972.

1973

In 1973 there was not, as yet, protective custody as a device. Drunk-in-public had disappeared. Disorderly conduct arrests usually drew sentences of a day in jail, but longer sentences were meted out for those with seven or eight prior arrests.

Dry Years

1974-1975

In 1974 protective custody was used heavily from January to August, along with transport to the sleep-off center. In 1975, with the sleep-off center closed due to budgetary problems,

"protective custody" for adults and "minor consuming" for minors were the nearly exclusive remedies. Disorderly conduct was used to keep persons in jail for one night.

1976-1977

In 1976 protective custody was used very infrequently, along with the treatment center. In 1977, a local ordinance prohibiting possession of an open bottle in public was added to the arsenal. (See discussion below.)

In the next section we will examine accident rates during wet and dry periods. However, police practices varied during wet periods and during the long dry period of 1974-1977. There was, for example, less police activity in 1973 in the realm of alcohol control than in any other year studied, this due to the uncertainty created by decriminalization of drunk in public statutes. One can argue that police activity was at its height in 1977 when the ordinance was used extensively.

Neither 1973 nor 1977 were "good years" for accidents. Could it be that either too little or too much police activity in the realm of alcohol control can have adverse results? Since that activity is focused upon Bethel as the locus of liquor purchase, could it be that too much police activity directed at public drinking drives up accidents in areas not as susceptible to alcohol control by police, e.g., the villages and the rivers and trails to the villages and private residences in town and village? On the other hand, the absence of police intervention for any purpose also seems to create difficult situations.

What can be said with certainty is that wet/dry comparisons in towns are certain to be misleading unless some description of police activity in these same years is included and considered in the equation. Since police practice is a possible realm of policy change, this subject merits a much more thorough analysis. It will be the subject of later papers in this series.

Analysis of Town-Village Relationships

In order to discover the relevance to villages in the region of Bethel's decision to be dry from 1974-1977, after its wet period in 1972-1973, we examined accident records and police docket sheets, focusing upon location of the accident or crime and residence of the victim and/or defendant. Indian Health Service records for the Bethel region provide the location of accidents in in-patient records and designate the kind of accident. Table 7. We were also interested in the interplay of the sleep-off center alternative and police practice on accident rates throughout the period. We focused on 1977 as a target year in several instances because various kinds of data could be read together.

It must be emphasized that this detailed statistical work remains in a preliminary state.

In-Patient Accidents

Graph 1 indicates a drop in serious accidents from their 1972-1973 levels when Bethel went dry in 1974, although an increase in 1975 and in 1977 in Bethel and an increase in 1976 and 1977 in the villages is indicated when the town and 57 vil-

lages are compared.

The increase in Bethel is not extreme when population change is taken into account (see Graph 2). Bethel did not again reach accidents equal to 2% of its population after it went dry. The "blip" in 1975 may well relate to the fact that the sleep-off center was closed during part of the year and police fell back upon protective custody.

Graph 3 includes only nearby, suburban villages. Some residents of these nearby villages are frequent visitors to the sleepoff center. From 1972 until 1976 one observes a drop in numbers of serious accidents.

Graph 4 includes villages which lie within an entirely different cluster. These primarily upriver Athabascan villages show no correlation with Bethel figures. Their source of liquor is an upriver town and their residents rarely spend time in the sleep-off center. Arrests, however, are processed in Bethel.

Graph 5 includes yet another cluster of coastal villages which appear to have little or no contact with troopers, Bethel police nor the sleep-off center. Transportation and communication problems and strong religious influence against drinking also are factors in the drinking patterns of these persons. No apparent correlation between Bethel's dry or wet status seems apparent.

Thus, one can argue that wet and dry status has its impact first on Bethel, and second on those villages in its "suburbs,"

but little or no impact upon either upriver villages or coastal villages.

The number of accidents are, of course, very small. But the reduction of serious accidents in six suburban villages when Bethel went dry is fairly persistent over time (see Table 1). The same cannot be said for the coastal or upriver clusters (see Tables 1A and 1B).

Drawing upon all available data (trooper records, municipal booking sheets and sleep-off statistics) it appears that suburban villages have regular contact with Bethel, town-based alcohol control measures throughout the year (Table 2), while coastal villages (Table 3) show infrequent contact. Note the use of protective custody in 1975 and the bottle ordinance in 1977.

That Bethel's alcohol control procedures have an impact on surrounding villages as well as Bethel residents is indicated by a survey of frequency of use of the treatment center by town and village residents.

Table 4 indicates that only three villages of the twelve with greatest contact by population, Nightmute, Mekoryuk and Newtok, are more than 40 miles from Bethel. The same relationship between closeby villages is reflected in percentages of Bethel arrests (on misdemeanors including the open bottle ordinance) and protective custody is reflected in Table 5. Only Quinhagak is more than 50 miles from Bethel.

Table 4 also accounts for the percentage of use of the treat-

ment center by individuals. Even when repeat visits are accounted for, the number of persons who use (or are transported to) the treatment center are significant among town and "suburban" village populations.

Twenty-nine percent of the Bethel adult population as individuals went to the center more than at least once in 1977. The average number of contacts per individual was 3.4.

About 12% of the individual adults of the surrounding villages visited or were taken to the shelter (see Table 6).

When one considers that more than half of the town and village population are minors, the significance of the sleep-off treatment center as a control alternative becomes apparent.

Trooper Arrests

Table 5 suggests that trooper arrests did not occur with greatest frequency in any of the villages which have access to and use the treatment center. They occurred in villages which have (or had) sources of liquor other than Bethel. Hooper Bay had, in 1977, a resident bootlegger supplied with an aircraft. Goodnews Bay looked to Platinum, a nearby village, for liquor. The two other listed villages were supplied then, as now, from Red Devil and are part of the upriver cluster mentioned above.

Who are taken by the police to the treatment (sleep-off) center?

While names of persons are confidential, because Bethel

police in 1977 usually arrested intoxicated persons on the open bottle ordinance prior to transporting them to the sleepoff center, we were able to compare village persons arrested but not transported, with those who were later transported to the sleep-off center. The latter group were all arrested for reasons of alcohol control.

The first group of village persons arrested for serious offenses had an average age of 27 years; for those arrested for minor offenses the average age was 26.7.

What is surprising, then, is the average age of village persons arrested and transported (then or later) to the center. The average age for major offense arrests was 26, but the average age for persons arrested for minor offenses (usually the open bottle ordinance) was 40.9 years.

It appears, then, that the target population for enforcement of the open bottle ordinance and alcohol control generally is substantially older than the average Native person in the region. He or she is a member of the generation which came of age in 1959 when liquor laws changed.

During the first six months of 1977, 318 individual Bethel residents were booked into the Bethel jail by state or local police. In the same period, 180 villagers were booked.

The division between those whose "experience" included the sleep-off (treatment) center from the town and the villages is the following:

Of 318 Bethel residents arrested in the first six months of 1977, 139 (or 43%) were taken to the treatment center. Of 180 villagers, 95 (or 53%) were taken to the center. What these statistics suggest is that over half of the villagers were arrested for drink-related offenses such as the bottle ordinance, minor consuming or curfew and nearly as many townspeople had the same experience prior to transport to the center.

An additional 32 of 85 (or 38%) village persons arrested, but not taken to the treatment (sleep-off) center, were arrested only for ordinance, curfew or minor consuming violations. Many of these persons were youngsters who could not officially be transported to the treatment center.

An additional 84 of 179 persons (or 47%) of townspeople arrested but not transported to the center were also arrested exclusively for these drink-related offenses.

What this suggests is that in 1977 Bethel police could have transported all but a fraction of the persons they arrested to a sleep-off center. That many were not transported reflects the vigilant enforcement of the open bottle ordinance, the failure of many persons to post the bail at the station house and, most importantly, the absence of useful alternative facilities for juveniles.

It could be argued that use of the ordinance had a negative impact on alcohol control and caused persons who might otherwise have availed themselves of transport to the treatment center to

avoid police contact.

Although prosecutors in 1977 described professional bootlegging in Bethel as a major cause of the upsurge in liquor-related problems (including accidents), the use of arrests by the police may have contributed, as it encouraged persons to take purchased liquor to a spot secure from law enforcement, but, perhaps, more dangerous to the drinker and his companions.

Village Officials and Town Drinking - 1977

Both council members and village police face extraordinary ordinary personal challenges when they confront drinking problems.

Village policemen are often the same age and, more than this, close acquaintances with problem drinkers. Each policeman must confront severe social pressure to join into binge drinking. His family may also face harassment.

Council members, also, must stand apart from drinking if they provide the single base of authority for controlling liquor in the village.

It is sometimes asserted anecdotally that both village police and councilmen go to the town to "let off steam" and drink when their jobs restrict them socially in the village.

Yet neither assertion seems to withstand close investigation.

Of 137 persons trained as village police in the Bethel region, only 15 were transported to the Bethel sleep-off center

in 1977. Of these, 11 were transported in a single instance only. Only three had numerous contacts with the sleep-off indicative of a serious alcohol problem. None were arrested on ordinance violations.

More significant, only two of fifteen with a 1977 contact (each with a single contact) were participants in trooper training programs in 1974 or thereafter. The others were probably no longer village police after 1974. It further suggests both careful selection of village police as the position became the cornerstone of village alcohol control and improved professionalization of village police by the troopers (Angell, 1978).

Persons capable of withstanding very strong social pressures seem to have been selected as village police or trained to withstand pressure.

Councilmen also seem to be selected with an eye toward personal control over alcohol. A single councilman from each of eight villages had a single contact with the sleep-off center in Bethel during 1977. In only one small suburban village was more than one councilman transported to the sleepoff center, in that case three councilmen, two with multiple contacts throughout 1977.

These exceptional cases then suggest very careful selection of village leadership and very strong personal control by both council members and police as they grapple with alcohol problems.

Epilogue

By 1980 several themes in the interplay of law with liquor control had taken hold in Bethel which could have been anticipated by longterm observers.

First, when former Trooper Constable Rogers was arrested on Bethel's open container ordinance, he sought the assistance of a former public defender (now in private practice) to challenge the ordinance (Tundra Drums, July 31, 1980:1).

The ordinance makes open bottles an infraction subject to civil fines. However, persons who cannot make bail (the civil fine) are often held overnight to await arraignment. Arrests on the open container ordinance often are followed by transportation to the sleep-off treatment center if the arrested person bails himself out of jail.

Rogers' attorney filed a brief which challenged the city's ordinance. It argued that police should release persons charged when persons are sober and agree to appear before the court. The ordinance does not speak of intoxication (a provision describing intoxicated persons was amended out of existence when arguments were made several years ago that it was unconstitutional).

While Rogers' attorney argued that the ordinance did not validate arrests, but legitimized merely the issuance of summons, the city police chief stated that arrests occurred automatically when persons were seen with open containers in public whether the person was intoxicated or not (Tundra Drums, 1980:12).

The confrontation was defused when the city attorney decided not to prosecute Rogers. However, the incident suggests how the increasing sophistication of Eskimo residents and the increasing availability of private attorneys will affect legal acts undertaken by city and village officials and the state legislature that are of dubious validity.

Throughout this paper, conditions and practices by legal agents in the bush have been described which must be characterized as "extra-legal" and not entirely legal. These practices have depended upon consensual agreements among village residents and an absence of attorneys who would challenge them.

However, Rogers is typical of many younger Eskimos who are sophisticated in American legal doctrine and not prepared to sacrifice individual rights to general community interests. They are also capable of soliciting active support from the tiny, but emerging, private bar in rural Alaska.

This marked change in the capacity and propensity of rural citizens to challenge legal practices of dubious legality will certainly affect recent amendments to state liquor legislation passed on by the 1979-1980 session of the Alaska State Legislature. The new statute allows villagers to vote to prohibit the importation of alcoholic beverages into their villages.

By October 22, 1982 Alcohol Beverage Control Board records showed that twenty of fifty-seven villages in the Yukon-Kuskokwim Delta had voted in favor of a ban on importation and sale of

liquor pursuant to Alaska Statutes 4.11.986 (amended 1981) and 4.11.500 (amended 1981).

Forty-six villages in the state have approved this option.

Six villages which approved the ban have been termed "coastal villages" in this paper, a designation which refers less to their geographic location than to their strong internal liquor controls. These are: Kipnuk, Kongiganak, Kotlik, Tununak, Tuntutuliak and Togiak.

Six villages which approved the ban are termed "suburban villages" because of their especially close connection to Bethel. These are Akolmiut, Atmautuaq, Kwethluk, Napakiak, Quinhagak, and Tuluksak.

An additional eight villages in the delta approved the ban. These are Alakanuk, Cheforak, Emmonak, Mekoryuk, Platinum, St. Mary's, Scammon Bay and Fortuna Ledge.

Two villages termed "upriver" villages addressed the ban through a referendum. Red Devil, site of an upriver liquor store, rejected it. Grayling had a tie vote (Alcohol Beverage Control Board, 1982).

The new statute, which very well reflects requests by villages for authority to make their communities legally dry, has provided further impetus for towns such as Bethel to reconsider their own ban on sale of liquor within the city limits.

In July, 1980, the Bethel City Council appeared prepared to

initiate a petition to be signed by at least 35% of the votes cast in the last city election (130 votes) to allow the community, under revised state statutes, to operate a community owned liquor store (Tundra Drums, July 31, 1980: 1).

Proponents of the petition argued, as in previous years, that the store would offer competition for bootleggers in Bethel and the region and raise money for city services.

One councilman noted:

[Y]ou cannot deny that being dry has not been functioning the way it was intended to. It worked fine the first year, but by the second and third dry year a very sophisticated criminal element was established in town, and now have set up residences in villages to keep the supply of bootleg liquor flowing heavier than ever" (Tundra Drums, July 31, 1980:12).

The Bethel police chief reported that 14 bootlegging arrests had been made in the first seven months of 1980 (id.).

Left unstated in these discussions was the impact of the change on the quantity of liquor likely to flow into the satellite villages. The threat to the villages was put to rest when the referendum failed. Nonetheless, transportation and communications continue to improve, allowing sales from Bethel, and even from Anchorage, to be completed with far greater ease than in years previous.

Conclusion

The practices and policies requested by villagers in the years immediately following statehood may not be useful remedies

in 1982 and in the future as rural and urban Alaska become more integrated by transportation and communication and as the legal culture of rural Alaska comes to more closely reflect the legal culture of urban Alaska.

If this is the case, rural Alaskans will have to look for means other than legal means to control drinking and drinking behavior. Alternatives within the realm of education and treatment must be developed in villages as well as in towns.

So also must villages regain the political authority necessary to define and control drinking behavior, an authority lost when the working relationship with outside law enforcement disappeared in the early 1960's.

Forty-six villages see the new alcohol law as the necessary remedy.

One hopes they are correct.

FOOTNOTES

1 Indian Health Service records provide an alternative to crime statistics where victims are more likely to be flown into the regional hospital than are defendants likely to be arrested or crimes likely to be reported. There are, however, qualifications to this statement. While the location of the accidents is certain, the cause of the accident may or may not have been noted. Those accidents noted as alcohol-related appear to be no more than a sample of those which were in fact alcohol-related as noted by the attending physician. Thus accidents arranged in graph form in this paper include all accidents. Table 8 profiles the accidents as they were recorded by fiscal year. We reorganized this data into calendar years for the graph. Table 7 provides the breakdown of Bethel inpatient accidents by categories of causation. There is also in this data, the danger of double-counting when more than one diagnosis is given. Double-counts were eliminated in the development of graphs.

We use these figures to view trends from year to year and not to measure alcohol-related violence in absolute terms. Since hard data collection in rural situations has been a bedeviling experience for many a researcher, we hope that this attempt to view "crime" through hospital records will be treated with sympathy.

2 Krauss notes that 1965 was, in fact, a pivotal year in that suicides among natives doubled. The problem of suicide centered around Alaska Natives in their teens and early twenties and was more common in towns than in villages (Krauss, 1977:2).

We shall return to the relevance of serious accidents to tracking the problem of alcohol use and control in the town and villages dependent upon Bethel in our survey of the 1970's.

3 Still, transportation, with the advent of the snow machine, had improved between Bethel and nearby or "suburban" villages during winter months and summer traffic by boat was steady.

4 This preventative approach was the mainstay of village conciliation (or problem) boards employed eight years later. See Conn, 1981.

5 Indian Reorganization Act, Act of June 18, 1934, 48 Stat. 984, 25 USC 461 et seq.

6 Chapter 11 of the 1915 session laws of the Alaska Territorial Legislature (amended 1917) provided for village self-government, including local ordinances enforced through a municipal magistrate. This power was eliminated when the state court system was centralized at statehood.

Tribal authority derived from court decision and federal statute was not closely examined in the period under study. On this subject, see Conn and Garber, 1981.

7 LEAA refused to fund such training for councils, however, arguing that they were not legal authorities (Nix Interview: 1980).

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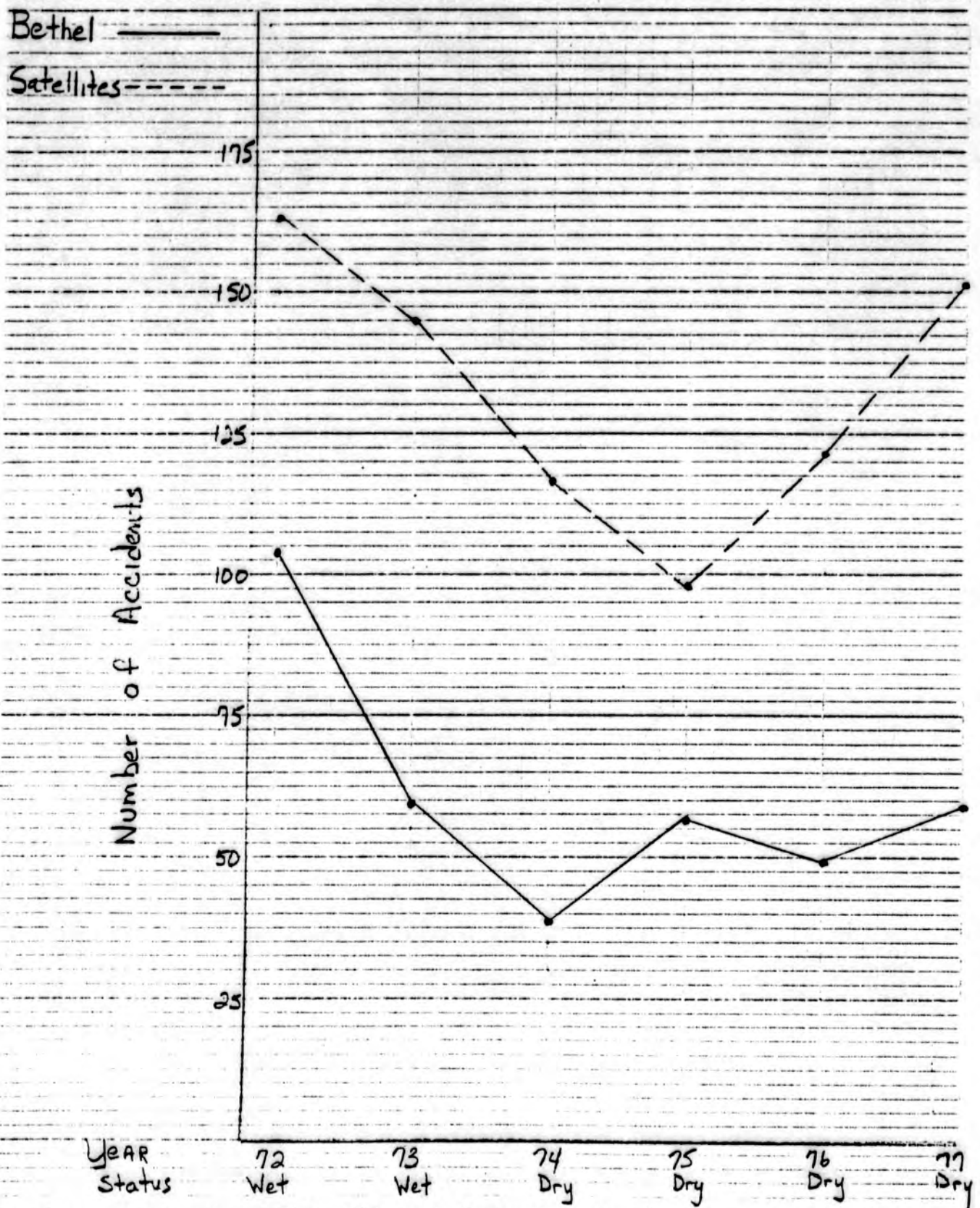
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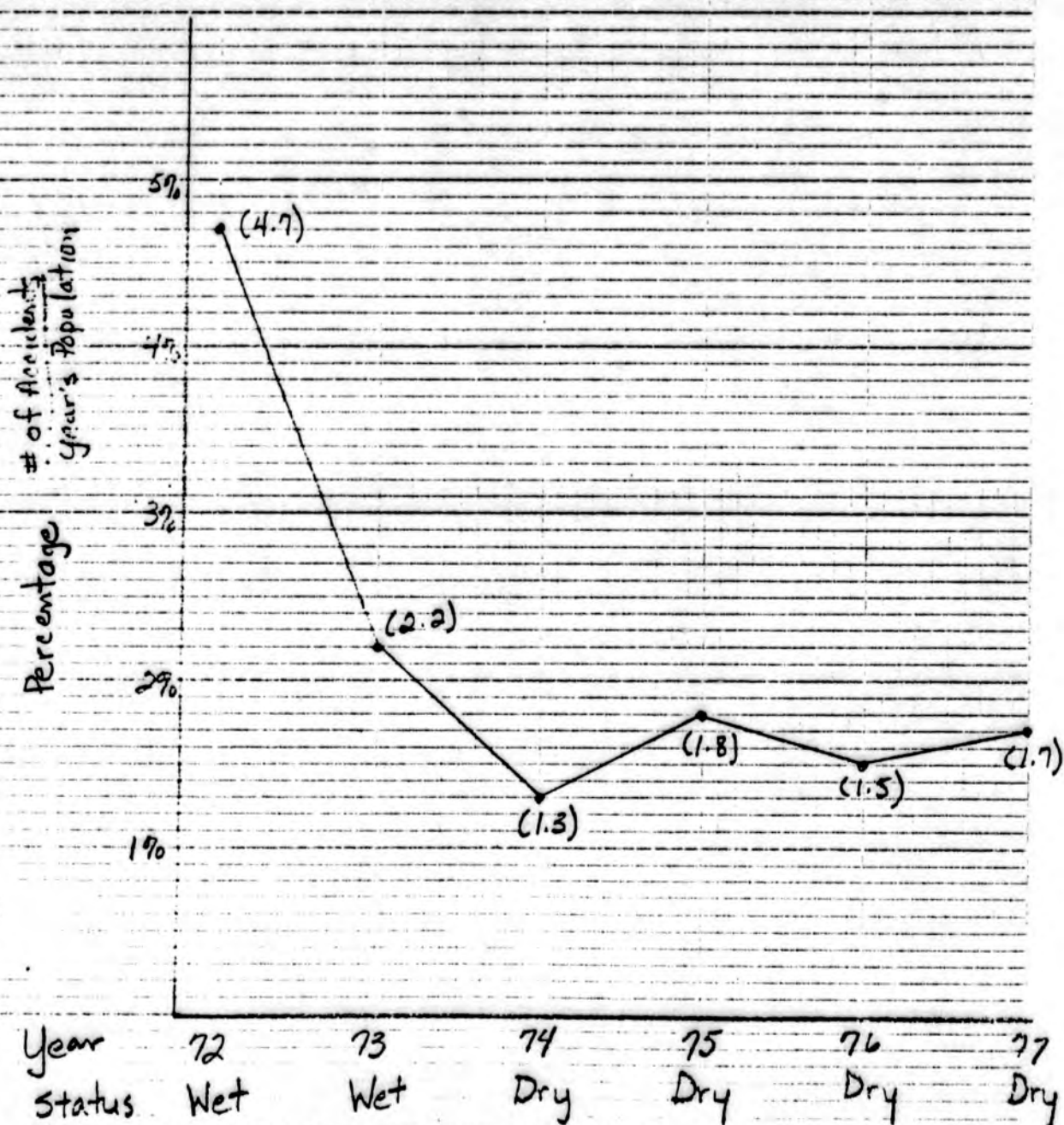
GRAPH 1
 BETHEL ACCIDENTS RESULTING IN HOSPITALIZATION
 Revised 1/8/79



Source: Department of Health and Human Services,
 Alaska Area Native Health Service,
 Inpatient Reporting system, Report 2E.

GRAPH 2
 BETHEL ACCIDENTS RESULTING IN HOSPITALIZATION
 Revised 1/9/79

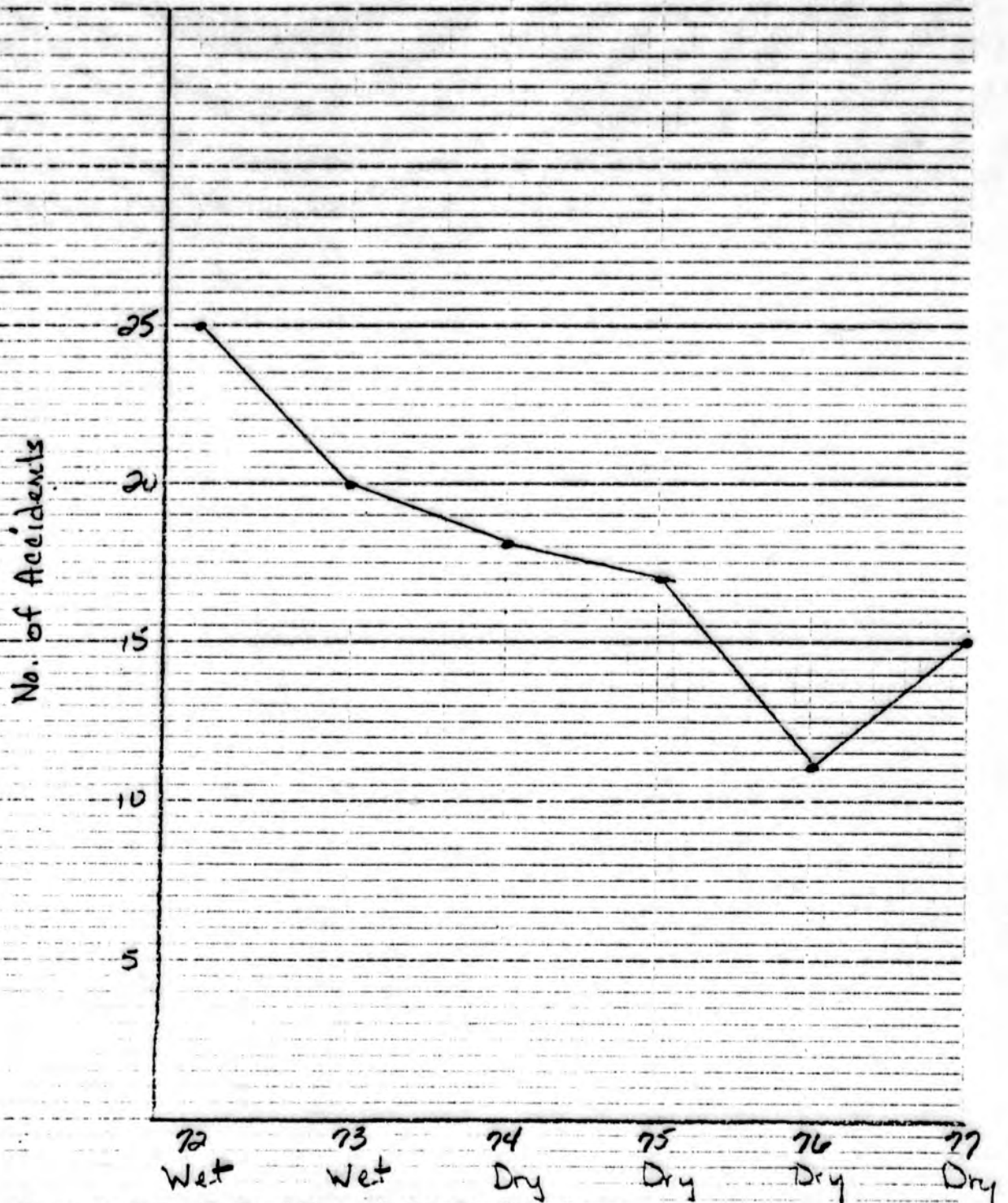
Percentage Figure = $\frac{\text{No. of Accidents That Year}}{\text{Population That Year}}$



Source: Department of Health and Human Services,
 Alaska Area Native Health Service,
 Inpatient Reporting system, Report 2E.

GRAPH 3

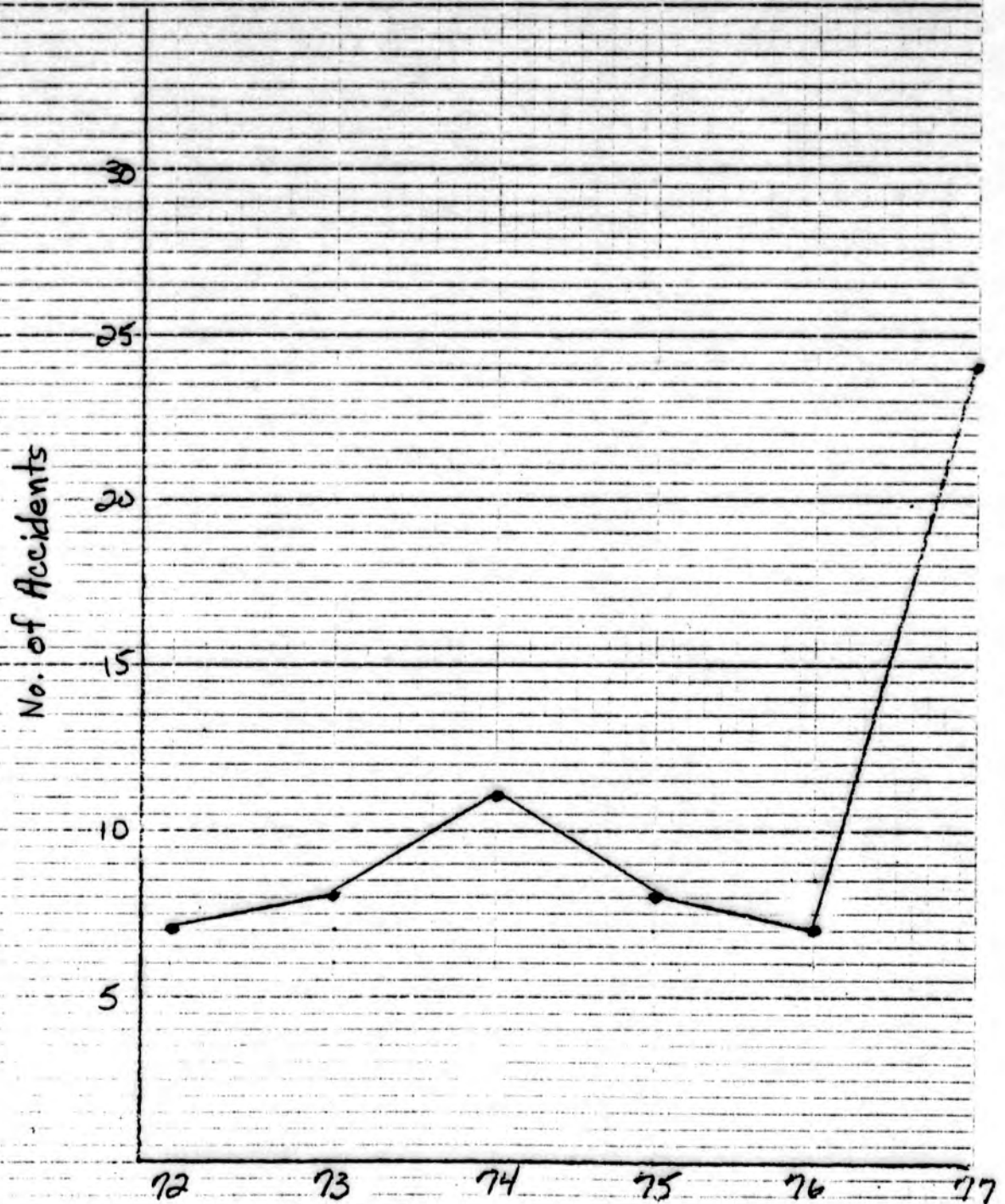
TOTAL ACCIDENTS RESULTING IN HOSPITALIZATION
 Akiakchak, Akiak, Kwethluk,
 Napaskiak, Nunapitchuk, Tuluksak
 (Suburbs)



Source: Department of Health and Human Services,
 Alaska Area Native Health Service,
 Inpatient Reporting system, Report 2E.

GRAPH 4

ACCIDENTS RESULTING IN HOSPITALIZATION
Crooked Creek, Grayling, Holy Cross,
Shageluk, Sleetmute, Stony River
(Upriver)



Source: Department of Health and Human Services,
Alaska Area Native Health Service,
Inpatient Reporting system, Report 2E.

GRAPH 5
ACCIDENTS RESULTING IN HOSPITALIZATION
Kipnuk, Kongiganak, Kwigillingok
(Coastal Villages)

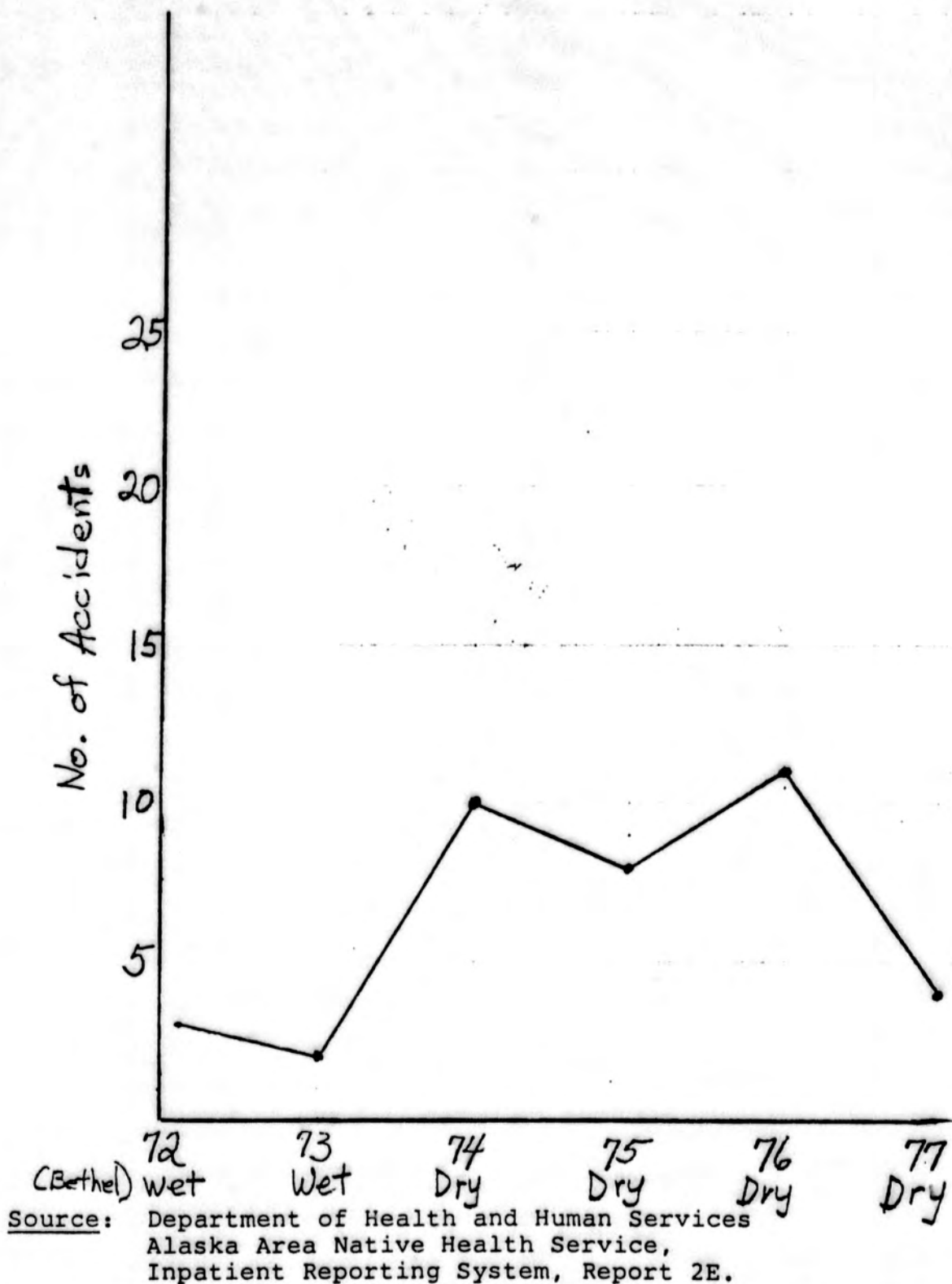


TABLE 1
 Serious Accidents 1972-1978
 Suburban Villages

	Akiachak	Akiak	Kwethluk	Napaskiak	Nunachuk	Tuluksak	Total
1972	6	1	9	4	3	2	25
1973	5	4	5	3	2	1	20
1974	3	1	5	4	2	3	18
1975	6	2	5	2	1	1	17
1976	2	2	4	1	1	1	11
1977	7	2	1	2	2	3	17
1978	2	2	8	1	1	1	15

TABLE 1A
Accidents
Coastal Villages

	Kongiganak	Kipnuk	Kwigillingok	Total
1972	0	1	2	3
1973	1	1	0	2
1974	1	3	6	10
1975	3	3	2	8
1976	2	5	4	11
1977	0	3	1	4
1978	3	0	0	3

(Corrected November 23, 1982.)

TABLE 1B
Accidents
Upriver Villages

	Crooked Creek	Grayling	Holy Cross	Shageluk	Sleetmute	Stony River	Total
1972	1	0	1	2	2	2	8
1973	2	0	4	1	1	0	8
1974	0	3	4	1	2	1	11
1975	0	1	1	2	4	0	8
1976	2	2	1	1	1	0	7
1977	2	2	7	0	9	4	24
1978	5	1	2	2	4	0	14

None for Red Devil

TABLE 2

ALL POLICE & SLEEP-OFF CONTACTS--VILLAGE & TOWN

		Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
NAPASKIAK	1972	-	-	-	-	-	-	-	-	B	X	X	-
	1973	T	X	-	-	-	-	-	-	-	-	-	-
	1974	-	-	-	-	-	-	-	X	X	X	X	X
	1975	X	X	X	X	X	PCTB	(5PC) T	(3PC)	(3PC)	(3PC)	PC B	X
	1976	X	X	(3B)	X	X	X	X	X	X	X	PC	B
	1977	"0"	X	"0"	(3B) "0"	"0"	5"0"	5"0" T	X	3"0" T	2"0"	"0" B	2B
	Sleepoff	2	6	5	4	15	8	7	10	8	6	6	3
NUNAPITCHUK	1972	-	-	-	-	-	-	-	-	T	X	X	-
	1973	X	BB	-	-	-	-	-	-	-	-	-	-
	1974	-	-	-	-	-	-	-	X	X	X	X	X
	1975	X	X	B	X	PC	(3PC)	(8PC) T	(4PC) T	(3PC) T	X	X	3PC
	1976	X	B	X	X	PC	X	X	X	X	M	X	T
	1977	X	M("0")	(2"0") B	X	X	(2"0")	(4"0") RC M	"0"	(2"0")	X	X	(3M) (2"0")
	Sleepoff	4	5	8	5	2	8	6	17	1	2	2	7

X = no contact
 (-) = no data
 T = trooper arrest
 PC = protective custody
 B = Bethel arrest
 "0" = bottle ordinance violator
 M = minor consuming in Bethel

TABLE 3

ALL POLICE & SLEEP-OFF CONTACTS--VILLAGE & TOWN (A COASTAL VILLAGE)

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1972	-	-	-	-	-	-	-	-	X	X	X	-
1973	X	X	-	-	-	-	-	-	-	-	-	-
1974	X	X	X	X	X	X	X	M	X	X	X	X
1975	X	X	X	X	X	2PC	PC	X	X	T	T	X
1976	X	X	X	X	X	X	X	X	B	X	X	X
1977	X	X	X	X	X	X	X	"0"	X	BB	X	X
Sleepoff	1	X	2	X	X	X	2	1	1	2	3	8

X = no contacts

(-) = no data

T = trooper arrest

PC = protective custody

B = Bethel arrest

M = minor consuming in Bethel

TABLE 4
SLEEP OFF CENTER CONTACTS - 1977

Miles from Bethel	Village	No contacts/Population	Yearly contacts Population	Percentage of individual use	Average Monthly contacts	Contacts Per Person
	Bethel	1601/3409	47%	29%	133	4.7
18	Kwethluk	273/590	46	12	23	
25	Akiachuk	156/354	44	12	12	
35	Tuluksak	82/202	41	12	6.8	
12	Napaskiak	80/210	38	17	6.7	
4	Oscarville	18/53	34	13	1.5	
150	Mekoryuk	58/184	32	12.5	4.8	
24	Akiak	43/165	26	13	3.6	
98	Newtok	31/124	25	13	2.6	
18	Napakiak	69/276	25	13	5.8	
105	Nightmute	29/123	24	9	2.4	
25	Nunapitchuk	67/325	21	12	5.6	
40	Eek	32/195	16	9	2.6	
	Quinhagak	58/395	15	7	4.8	
	Sleetmute	17/121	14	7	1.4	
	Toksook Bay	43/317	14	7	3.6	
	Hooper Bay	73/590	12	8	6.1	
	Tununak	37/299	12	7	3.1	
	Holy Cross	24/212	11	4	2.0	
	Scamnon Bay	21/193	11	7	1.8	
	Tuntutuliak	24/225	11	8	2.0	
	Kwigillingok	20/229	9	4	1.6	
	Lower Kalskag	15/195	8		1.3	
	Mt. Village	40/513	8		3.3	
	Chevak	34/447	8		2.8	
	Marshall	16/214	7		1.3	
	Kongigonak	14/200	7		1.2	
	Kasigluk	21/309	7		1.8	
	Crooked Creek	7/107	7		.6	
	Shageluk	10/169	5		.8	
	Kipnuk	19/351	5		1.6	
	Atmauthlak	8/169	5		.7	
	Goodnews Bay	9/248	4		.8	
	Grayling	8/189	4		.7	
	Kotlik	10/284	4		.8	
	Pilot Station	13/301	4		1.1	
	Pitka Point	3/84	4		.3	
	Russian Mission	7/158	4		.6	
	Alakanuk	13/527	3		1.1	
	Aniak	10/323	3		.8	
	Chefornak	6/192	3		.5	
	Upper Kalskag	4/164	2		.3	
	Emmonak	13/545	2		1.1	
	Anvik	1/87	1		.08	
	Chautbaluk	1/113	1		.08	
	Sheldons Pt.	1/136	1		.08	
	Togiak	1/419	.002		.08	
	Red Devil	0/35	0		0	
	Napaimute	0/43	0		0	
	Lime Village	0/26	0		0	
	Stony River	2/74	3			

TABLE 5

VILLAGES RANKED BY FREQUENCY OF OCCURRENCE
TO RATIO OF POPULATION
1977

<u>Miles from Bethel</u>	<u>Trooper Arrests</u>	<u>Occurrence/ Population. (%)</u>
115	1) Goodnews Bay	5.38
150	2) Shageluk	2.78
160	3) Grayling	2.25
155	4) Hooper Bay	2.03
	<u>Bethel Arrests</u>	
12	1) Napaskiak	2.75
24	2) Akiak	2.37
18	3) Kwethluk	2.00
35	4) Tuluksak	1.64
	<u>Protective Custody</u>	
35	1) Tuluksak	2.20
25	2) Nunapitchuk	1.85
18	3) Napakiak	1.54
70	4) Quinhagak	1.45

TABLE 6
"Treatment Center Data" 1977
Individuals Per Month

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Indiv.	Pop.	Total Contacts	Individual Percent	Contact Per Person
Akiachuk	11	12	7	13	8	7	9	16	5	6	6	4	42	354	156	12	3.7
Akiak	1	4	4	1	2	2	6	0	4	4	2	4	22	165	43	13	1.95
Alakanuk													9	527	13	2	1.4
Aniak													6	323	10	2	1.7
Anvik													1	87	1	1	1
Atrouthluk													8	169	8	5	1
Bothal	91	85	81	85	103	125	121	97	60	70	46	66	469	3409	1601	29	3.4
Chofornak													5	192	6	3	1.2
Chenak	2	1	5	6	3	1	0	0	2	2	2	3	21	447	34	5	1.6
Chantbaluk													1	118	1	1	1
Crkd. Creek	2	0	0	0	0	0	1	0	1	1	0	3	4	107	7	4	1.7
Eek	3	2	2	2	0	0	2	8	3	4	0	1	18	195	32	9	1.8
Eronak	1	1	2	0	0	0	3	0	0	0	2	1	9	545	13	2	1.4
Goodnews B.													9	248	9	4	1
Grayling				1					2	2	1	1	4	189	8	2	2
Holy Cross													9	312	24	4	2.7
Kaper Bay	2	6	8	12	4	1	2	2	10	12	3	1	47	596	73	8	1.6
Kasikluk													7	306	21	2	3
Kipruk	0	0	0	1	0	3	3	1	1	0	1	1	7	351	19	2	2.7
Kongigonak	0	0	2	5	1	1	3	2	0	0	0	0	11	200	14	6	1.2
Kotlik													4	284	10	1	2.5
Kwethluk	15	25	15	16	11	18	26	13	4	8	10	12	67	597	273	12	4.07
Kuyallingok	1	1	2	0	0	0	1	1	1	1	2	3	10	229	20	4	2
Line Vige.													0	26	0	0	0
Loc. Kalskag													11	216	16	5	1.5
Marshall													23	184	58	12.5	2.5
Mokoryuk	3	6	8	2	0	4	2	4	2	2	2	2	16	513	40	3	2.5
Mt. Village													0	43	0	0	0
Napainute	7	5	6	7	4	8	5	5	4	5	2	2	37	276	72	13	1.95
Napakiak	2	5	6	3	8	8	10	5	5	6	7	2	36	210	80	17	2.2
Napaskiak	7	2	2	2	2	1	2	2	2	2	1	3	16	124	31	13	1.9
Nowtok	0	0	4	4	0	0	1	4	3	2	1	2	11	123	29	9	2.6
Nightmute	6	7	7	5	2	9	8	11	1	1	2	6	40	325	67	12	1.7
Nunapitchuk	0	0	1	1	0	1	4	2	2	2	1	1	7	53	18	13	2.6
Oscarville													8	301	13	3	1.6
Pit. Stat.													1	81	3	1	3.0
Pitka Pt.													0	35	0	0	0
Quirbagak	5	2	3	2	1	8	7	4	5	5	4	1	28	395	63	7	2.14
Red Devil													0	35	0	0	0
Russian Msn.	2	1	0	0	2	0	0	0	0	0	1	0	5	153	7	3	1.4
Scarron Bay	0	2	0	1	1	1	0	2	1	0	5	1	14	193	21	7	1.5
Shageluk	2	0	1	0	1	0	0	0	1	1	2	0	6	157	10	4	1.7
Sheldons Pt.													0	136	1	0	0
St. Mary's													12	415	14	3	1.2
Sleetmute	3	1	1	1	3	0	2	2	0	0	0	1	9	161	17	7	1.9
Stony River													1	74	2	1	2.0
Togiak													2	414	1	0	0
Toksook Bay													21	317	43	7	2.1
Tuluksak	1	6	4	0	2	4	4	4	4	3	3	4	23	202	49	12	2.1
Tuntutuliak	2	4	2	1	2	3	2	2	2	2	3	2	17	225	31	8	1.82
Tununak	4	0	2	6	1	0	6	7	3	2	0	1	21	299	37	7	1.8
Upper Kalskag													14	164	19	9	
McGrath													2				

TABLE 7: Residents of Bethel - Accidents which Required Hospitalization

	Wet June 71 May 72	Wet June 72 May 73	Wet/Dry June 73 May 74	Dry June 74 May 75	Dry June 75 May 76	Dry 1/2 76 Year
Alcoholism	83	72	33	45	24	33
Accidents Injury	131	86	66	84	56	75
Alcohol related accidents	36	19	3	30	4	15
Purposeful Injury	44	44	25	13	20	39
Accidental Falls	51	42	33	22	18	33
Accident - sharp in- strument or firearms	28	21	21	15	17	16
Total External Injury	352	258	201	144	190	215

* From Department of Health & Human Service AANHS. Inpatient Report System 2E.
Includes duplicated diagnoses in accident data - offered for trend analysis only.
wet = liquor store plus bars in Bethel dry = sale is prohibited within city limits
sleep-off ceased in 1975

TABLE 8: Inpatient Accidents*

		Wet June 71 May 72	Wet June 72 May 73	Wet/Dry June 73 May 74	Dry June 74 May 75	Dry June 75 May 76	Dry 1/2 76 Year
Alcoholism	Bethel	70.3% 83	59% 72	55.9% 33	72.6% 45	51.1% 24	62.3% 33
	Satellites	29.7% 35	41% 50	44.1% 26	27.4% 17	48.9% 23	37.7% 20
	Total	118	122	59	62	47	53
Accidents	Bethel	37.5% 131	33.3% 86	30.4% 66	37.8% 84	30.3% 56	35.4% 75
	Satellites	62.5% 218	66.6% 172	69.6% 151	62.2% 138	69.8% 129	64.6% 137
	Total	349	258	217	222	185	212
Alcohol Related Accidents	Bethel	72% 36	48.7% 19	21.4% 3	88% 30	20% 4	65% 15
	Satellites	14% 14	51.3% 20	78.6% 11	12% 4	80% 16	35% 8
	Total	50	39	14	34	20	23

* From Department of Health & Human Service AANHS. Inpatient Report System 2E.
 Includes duplicated diagnoses in accident data - offered for trend analysis only.
 wet = liquor store plus bars in Bethel dry = sale is prohibited within city limits

APPENDIX 1

Henry Evon of Kwigillingok -- they are serviced by Ray Christenson, contracted by Wien. Service was good at first but is poor now. Ray Christenson carries more passengers, than mail. A letter sometimes takes three months to go from Bethel to Kwigillingok. His wife mailed some tupperware from Bethel in October of this year and still has not received it. In November, he ordered some baby food, it all came frozen. In September, he ordered some linoleum, it arrived in Bethel in October and he received it on January 26, 1973. Also he thought Wien should be consistent in their rates. His Example was that his wife and little boy flew from Kwigillingok to Bethel, they were told the little boys fare would be \$13.50, half of an adult fare, they were charged \$16.50 when they arrived in Bethel.

Mark Tom of Newtok -- the mail service is slow, they are supposed to get serviced once a week, but if the weather is bad, or during the spring or fall, they have to wait weeks. They are serviced by Christenson, contracted out by Wien. They should be serviced more than once a week, they have emergencies just as any other village. He also said that the charter services were double charging them. You pay for the plane to take you out to the village, and if someone from the village wants to come back, they also have to pay.

John Paul of Kipnuk -- mail and freight service is bad. Last September his wife bought some things and they got there in

January of this year. The pop was frozen, produce was rotten. In December 1971, he ordered a table and some linoleum, in February 1972, he received the linoleum (all bent out of shape) and also the table top, but to this day he has not received the legs to the table. In December 1971, he bought a round trip ticket to Chicago from Wien, and he has not received the ticket or his money back. He has the receipt.

Dick Kiunya of Kongigonak -- they have no airport, in the summer they land on the lake, and winter its wherever they can. They are supposed be serviced by Christenson, contracted out by Wien, twice a week but he gets behind. Christenson has twelve villages to service, and he carries more passengers than mail. They have also had freight damage by the Wien cargo employees. Wien never follows their schedule, he feels that Wien needs help, just too much freight and mail to handle. He also feels that the charter services will take a white person before they will a Native.

Joe Pavilla, Kwigillingok Postmaster of 19 years -- he agrees with Dick Kiunya that Wien needs help, and the only schedule that Wien has is on paper, they don't follow it at all. He also said that when Christenson first got the contract service was real good, but now Christenson carries more passengers than mail.

Raphael Murran of Hooper Bay -- talking about Wien airlines he said,

1. Freight is broken and suit cases are lost,
2. They should have help for the older people that can't speak English,
3. They

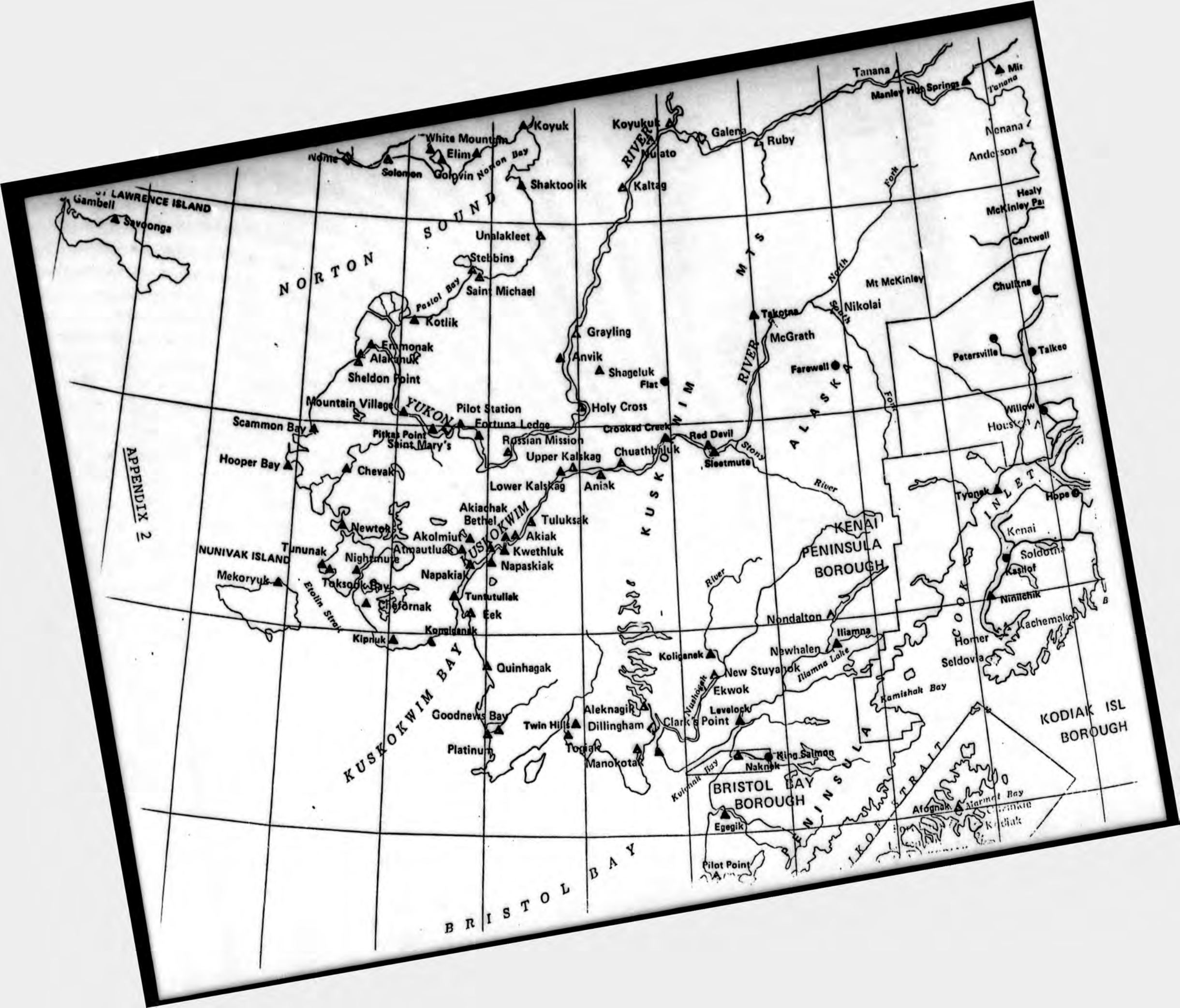
should have infant care when having to wait at an airport (milk, diapers, etc.) 4. That if a person is late, he misses out even if the plane is not full, and 5. The reservation system is not honored.

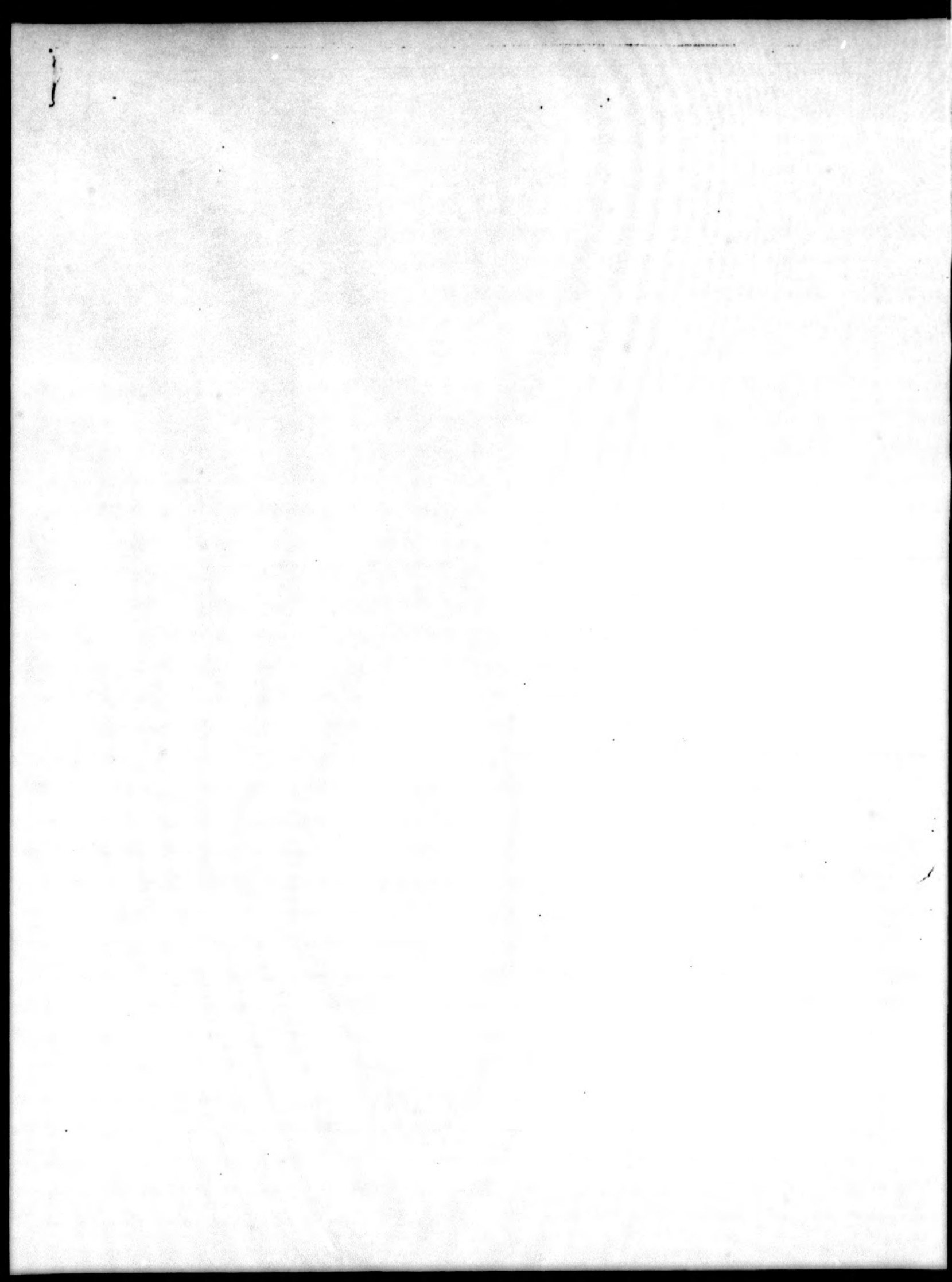
David O. David of Kwigillingok -- serviced by Christenson, contracted by Wien. The mail service was good at first, but has slacked off considerably. He thinks freight is being held up in Anchorage as well as in Bethel. He has also had damaged items by Wien. Another operator is definitely needed.

Oscar Schnieder of Platinum -- Wien's freight, mail, and passenger service is bad and they will take whites before they will take the Natives.

Issac Hawk of Eek -- serviced by Christenson, contract by Wien. Same problems as the other villages, service is bad and the air service stops from October to December.

Don Kuku of Quinhagak -- they are supposed to have a plane come in three times a week, but its not always on schedule. The Christmas season is always the slowest. He thinks mail and freight should come before passengers.





Lloyd Cathman

PRELIMINARY DRAFT

An Analysis of Outpatient Accident Trends in
Two Dry Eskimo Towns as a Measure of
Alternative Police Responses to Drunken Behavior

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An Analysis of Outpatient Accident Trends in
Two Dry Eskimo Towns as a Measure of
Alternative Police Responses to Drunken Behavior

Introduction

Two rural Eskimo towns of 3,000 persons have banned the sale but not the use of alcoholic beverages in their communities. In the town of Bethel, police pick up intoxicated persons and transport them to a sleep-off and treatment center. In the town of Barrow, police take intoxicated persons into protective custody. Each town uses its police practice as an alternative to arrests for drunken behavior, decriminalized by the 1972 Alaska State Legislature. At least half of the adult population is picked up in each place.

The authors seek to measure the impact of these differing approaches on violence related to alcohol use by employing Indian Health Service data in lieu of poorly maintained police data.

Accident victims in the towns of Barrow and Bethel are treated for outpatient visits at the Native Service hospitals located within each town. Residents in the surrounding villages also rely on these two hospitals for outpatient treatment. An outpatient visit can consist of either a minor accident which does not require hospitalization, or an emergency room visit in which the victim is later hospitalized.

Differences exist between the number, causation and place of alcohol-related accidents when the Barrow region is compared to the Bethel region. Further differences can be observed by comparing these accident data to the statewide accident data which includes both urban and rural natives. A small portion of the differences might be attributed to idiosyncracies in recording practices between regions, however, certain trends in the data suggest that specifics of alcohol control mechanisms make an impact on how and where alcohol-related accidents occur in rural regions.

Since it may indicate a violation of criminal law, the accident category "Injury Purposefully Inflicted by Another" is analyzed in this report. This category accounted for a substantial percentage of

alcohol-related accidents in both the Barrow region (40%) and the Bethel region (41%). Purposefully inflicted injury, along with other categories such as environmental factors, accidental falls and poisoning are listed in Table 3.

We analyzed "Inside the Home" as a place of injury because of the magnitude of alcohol-related accidents that occur inside the home, and because the home as a place of alcohol related accidents has an implication on the usefulness of protective custody laws which limit police to public (not private) intervention of drunken behavior.

In the Barrow region, 42% of the alcohol related accidents occur inside the home. This is 14% higher than the statewide ratio of all alcohol related accidents that occur inside the home (Table 2). It is particularly higher than other places that set the scene for alcohol related accidents including outside the home, highway and street, recreation and public building (Table 4).

These data also indicate that the home is frequently a setting for interpersonal violence, especially in Barrow. Within the statewide accident data, 32% of all accidents, purposefully inflicted by another, occur inside the home. In the Barrow region, 56% of inflicted accidents occur inside the home - a figure that is 24% higher than the statewide native rate.

Several factors should be considered as making the home a setting for alcohol related accidents in the Barrow region. In the period covered by these data, the local option in Barrow prohibited the sale of alcoholic beverages, and no public drinking establishments existed. The town

police used a broad-based protective custody ordinance to keep the public areas clear of dangerously intoxicated persons. An intoxicated individual is jailed for 5-12 hours after being taken into protective custody. Protective custody laws do not provide for police intervention into private homes, although in some cases, police will respond to these requests in Barrow.

The legally dry status of Barrow, in addition to the approach to alcohol control by town police, may determine where drinking and violence occur. Liquor that is illegally purchased in the town of Barrow, or purchased legally from Fairbanks, can be safely consumed in private homes without fear of police intervention.

In Bethel, the dry policy has a similar affect of causing citizens to consume alcohol in private. The private domain is a haven for town residents and village residents with town relatives or acquaintances. Similar to Barrow region, the Bethel region has a higher incidence of home-based alcohol related accidents when compared to statewide data. However, these accident data indicate that the magnitude of this type of injury is not as severe in Bethel. In Bethel, the percentage of all accidents that occur inside the home was 14% lower than the incidence in Barrow. The incidence of alcohol related, purposefully inflicted injuries in the home was 9% lower in Bethel than in Barrow.

Police practice in Bethel is similar to Barrow and yet different. Police confiscate open bottles of alcohol in public and jail persons with bottles until civil fines are paid. Fines are usually paid immediately after confiscation of the bottle, and individuals are rarely jailed on this town ordinance. Bethel police do not use protective custody.

Instead, police convey dangerously intoxicated persons to the sleep-off center. The high level of transport of Bethel citizens to the sleep-off center (29 percent of all town residents were transported at least once in 1977) suggests that residents may be more inclined to solicit police intervention when domestic drinking occurs, and when the end result is transport to a sleep-off center - not incarceration of a friend or relative in the local jail.

Because protective custody replaced criminal law charges for being drunk in private as well as drunk in public, it has severely narrowed alcohol control practice where protective custody is the mainstay of alcohol control practice as it is in Barrow. Bethel's use of a second resource, a sleep-off center, may be one way to provide a useful avenue for increasing drinking controls within the home through acceptable police intervention into private drinking situations at the request of town residents.

Table 1

1978
NATIVE HEALTH SERVICE
ACCIDENTS TREATED ON AN OUTPATIENT BASIS

	TOTAL FIRST VISITS	OCCURRED INSIDE HOME
<u>STATEWIDE: All Native Service Units</u>		
Total All Accidents	15,827	2,751
Number of Alcohol Related Accidents	2,249	628
Total Accidents with Injury Purpose- fully Inflicted by Another	1,458	467
Number of Accidents with Injury Purposefully Inflicted that were Alcohol Related	858	305
<u>BARROW SERVICE UNIT: Servicing the Town and Surrounding Villages</u>		
Total All Accidents	1,471	391
Number of Alcohol Related Accidents	352	149
Total Accidents with Injury Purpose- fully Inflicted by Another	179	101
Number of Accidents with Injury Purposefully Inflicted that were Alcohol Related	141	81
<u>BETHEL SERVICE UNIT: Servicing the Town and Surrounding Villages</u>		
Total All Accidents	2,457	321
Number of Alcohol Related Accidents	251	82
Total Accidents with Injury Purpose- fully Inflicted by Another	162	74
Number of Accidents with Injury Purposefully Inflicted that were Alcohol Related	103	49

Data Source: Department of Health & Human Services, Alaska Area Native Health Service, On Request Report 16.

Table 3

1978
NATIVE HEALTH SERVICE
BARROW REGION SERVICE UNIT

OUTPATIENT ALCOHOL RELATED ACCIDENTS
CAUSE OF INJURY

<u>CAUSE</u>	<u>NUMBER</u>	<u>PERCENTAGE</u>
Injury Purposefully Inflicted by Another	129	40%
Accidental Falls	56	17
Motor Vehicle	48	15
Cutting and Piercing Instruments	33	10
Undetermined	18	6
Other	16	5
Animal Related, Not Stings	8	3
Suicide	6	2
Environmental Factors	4	1
Firearms	2	-
Machinery	2	-
Accidental Poisoning	1	-
Fires	<u>1</u>	-
TOTAL:	324	

Data Source: Department of Health & Human Services, Alaska Area Native Health Service, On-Request Report 14,

1978
NATIVE HEALTH SERVICE
ACCIDENTS TREATED ON AN OUTPATIENT

	<u>STATEWIDE*</u>	<u>BARROW**</u>	<u>BETHEL**</u>
Percentage of all Accidents that were Alcohol Related	14%	24%	10%
Percentage of all Alcohol Related Accidents that were Injury Purposefully Inflicted by Another	38%	40%	41%
Percentage of All Accidents that Occur Inside the Home	17%	27%	13%
Alcohol Related Accidents that Occur Inside the Home	28%	42%	33%
Percentage of all Injury Purposefully Inflicted Accidents, Alcohol Related that Occur Inside the Home	36%	57%	48%
Percentage of all Purposefully Inflicted Accidents that Occur Inside the Home	32%	56%	46%

- * This represents the statewide native population which includes all Native Health Service Units, Urban and Rural
- ** This represents the service unit region which includes the town and surrounding villages

Data Source: Department of Health & Human Services, Alaska Area Native Health Service, On-Request Report 14.

Table 4

1978
NATIVE HEALTH SERVICE
BARROW REGION SERVICE UNIT

OUTPATIENT ALCOHOL RELATED ACCIDENTS
PLACE OF INJURY

<u>PLACE</u>	<u>NUMBER</u>	<u>PERCENTAGE</u>
Home, Inside	139	42%
Home, Outside	75	23
Highway and Street	43	13
Not Specified	23	7
Recreation and Sport	17	5
Public Building	15	5
Other	5	2
Industrial Premise	4	1
School	1	-
Resident Institution	1	-
Farm, Ranch	<u>1</u>	-

TOTAL: 324

Data Source: Department of Health & Human Services, Alaska Area Native Health Service, On-Request Report 16.