

# BUSH WINS LEGAL VICTORY

## Alaska Legal Services Successfully Push Through New Policy

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Attorney General John Have-lock has issued an important "policy" change for the Department of Public Safety. The new directive guarantees person arrested at remote locations that they will be furnished transportation back to the site of the arrest upon their release at any time during trial proceedings.

The much needed ruling is the outcome of a test case filed in Fairbanks last month by Alaska Legal Services. It represents another foothold in the fight for equal rights under the law for bush residents.

In January of 1973, an Alaska Native was arrested and charged with forgery in the village of Stoney River, Alaska. He was taken into custody and flown to Aniak, about 100 miles

away, where he appeared before a magistrate.

Bail was set at \$1000 and the defendant indicated he would like to contact an attorney. That same day, he was transported to Bethel, another 100 miles distant, and held in the Bethel City Jail.

About a week later, he was released upon his own recognizance with the condition that he not return to Stoney River until after his preliminary hearing.

Another hearing was held on Feb. 2, and the defendant waived the preliminary hearing, which meant that the next step would be a grand jury hearing in Fairbanks. Future proceedings would not necessarily take place in Bethel.

The condition that the defendant not return to Stoney River was also removed at that time. However, the defendant found himself stranded in Bethel, 200 miles from home, living with relatives in an already overcrowded dwelling, and with no money to pay the \$40 one-way fare back to Stoney River.

An appeal by his attorney to the Division of Corrections and the Department of Public Safety to advance the fare to return home was denied on the basis that it was not the "policy."

Joe Seale, regional supervisor for the Division of Corrections stated that it was not the policy to pay travel expenses except for those persons who had been found innocent, had the charges dismissed, or had served their sentence and been released.

Alaska Legal Services argued that such a policy violated Alaska statutes which required that "The Commissioner shall adopt regulations governing the furnishings of transportation,

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discharge payments, and clothing to all state prisoners upon release AT ANY STAGE of the criminal proceedings."

An interesting side point is that if the defendant had pleaded guilty and was sentenced, he would have received transportation home.

There are actual cases where people have done exactly this knowing they would get home sooner than if waiting for all the legal proceedings to take place.

By not providing transportation, ALS argued that the defendant did not have the actual freedom that the Court intended him to have, that was his right, and that was consistent with the presumption of innocence before trial.

In very human terms, the man from Stoney River could not engage in his livelihood, which was operating a trapline, his only source of income. Nor could he return to Stoney River to help his attorney gather facts for his defense.

Eventually he borrowed the \$40 to return home but was unsure how he would pay it

back and how he would pay his way back for the final trial.

The case of the Stoney River man was not an isolated happening. Many Alaska Natives have found themselves charged with a crime, arrested, flown hundred of miles from home, released until trial, and left with no money to survive in the city or to get back home.

Fortunately, last month's case has changed the "policy". Attorney General John Havelock issued a directive changing the official policy and guaranteeing every person transportation back to the place of his or her arrest upon release at any stage of a criminal proceeding.

The cost will be paid by the Department of Public Safety. If the defendant does not wish to return to that place, he may choose any site that would be within the same amount needed to send him back to the place of arrest.

Now, not only the man from Stoney River (who was refunded his \$40) but all bush residents will no longer languish many miles from home awaiting trial.