

Two Justice Systems . . .

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— justice on the local level by the village council and white man's justice, usually enacted many miles and often many months removed from the event.

Bush justice throughout Alaska is at best an uneven commodity with irregularities so numerous and bizarre as to stagger the imagination.

It is generally known and accepted that all Alaskans, as citizens of the state and the nation, have certain inalienable rights.

It is not certain how you guarantee those rights in a vast area of diversified cultures and languages, of subzero weather and no roads to many communities, of impossible flying conditions, of "courts" without judges or lawyers, and towns without courtrooms or jails.

The delivery of legal and judicial services to rural Alaska was a major concern at a conference on bush justice held in December of 1970.

Guidelines were laid down at that time for improving the system, for encouraging greater participation in the judicial and law enforcement system on the part of the Native population, and to bring that system closer to the village.

It was proposed that the state train and utilize para-legal personnel in the rural area, both in the magisterial system and in the training of village policemen.

What are para-legals? In a broad sense, it means anyone involved in the legal system other than a lawyer who has passed a bar examination.

Is a lawyer's secretary a para-legal? Is a magistrate? A police officer? A court clerk?

A new careers program under the auspices of Alaska Legal Services will provide training for five para-legal positions throughout the state. Persons in these positions will conduct pre-trial investigations, interview clients, and act as liaison with the community. They will work under the supervision of attorneys.

The Alaska magistrate system is a para-legal system. Over sixty magistrates function in scattered communities, often holding court in their own living-rooms.

Until recently about the only requirement for magistrates was to be at least 21 years of age and able to read and write with reasonable skill. There was little formal training in legal principles and the magistrate system came under much criticism from abuses of power.

In some areas of the state, magistrates are still in office who were appointed before the system was refined and have held their office almost in perpetuity, or as one critic says cynically, "since the Russians landed."

Often they have the attitude that they know what is "best for the people" and judgments are not always soundly based on law. The late Chief Justice George F. Boney bemoaned this fact and stated that "arbitrary judgments should not be made under the seal of the state of Alaska."

Today, magistrates are chosen following recommendations of the village council. They are under the supervision of the higher courts and of a magistrate supervisor, presently William Nix, a former state trooper.

The system still has many shortcomings. The law is a complex mechanism and the ability of any lay person may not be adequate to administer justice properly.

Lawyers representing clients in the bush often complain of the frustration of trying a case

before a magistrate who is totally unfamiliar with the legal points involved.

To complicate matters further, while the trial is in progress the defendant's lawyer often stays at the home of the trooper who arrested his client.

Many cases of bush trials are mere formalities in which the defendant makes no attempt to plead innocent. In a typical community, every case tried in 1964 resulted in a conviction. In 1965, every case resulted in conviction. In 1970, the record was 98 per cent convictions.

Often a person charged has no ready access to a lawyer. Brought by the state trooper before the local magistrate, he is unaware of his legal rights.

Attorney Steve Cohn of the Institute of Social, Economic, and Gov. Research recommends that Alaska consider a system using lay advocates who would investigate, counsel, interpret, and advise a defendant of his legal rights.

Cohn has researched a similar system used in tribal courts of the Navajo. "There are a whole area of things an attorney can't do when the client is of a different culture," said Cohn.

"Do we apply OUR law to THEIR society?"

Native people, he explained, view correction in a global sense: adapt the offender back into society. It is a reconciliatory procedure in a small, highly personalized society. "Paying \$25 to the state of Alaska has very little meaning."

Art Hippler, an anthropologist with ISEGR, co-authored with Cohn, a paper on Athabaskan law ways and they are currently engaged in a similar study in Eskimo communities.

The study was requested by the State Judicial Council for the purpose of better understanding Alaska's native law ways for the purpose of improving bush justice.

Hippler explained that non-Native judges and magistrates are often unaware of the social and cultural background of an offender and his comprehension of the law.

And while a Native may question the legitimacy of the white man's authority placed upon him, he is inescapably subject to it. Justice as the Native understands it needs to be correlated to the justice system that was traditional within the village.

Some experts believe that the best delivery system is one of fully-trained, professional, bar-association lawyers, and experienced judges operating a circuit court which is flown in periodically. Lack of understanding of local conditions would be compensated by expertise and neutrality.

A para-legal system, on the other hand, would have a more sensitive cultural orientation, and knowledge and understanding of the local situation. Perhaps the system that will evolve in Alaska will be a combination of both para-legals and circuit riders.

The para-legal at present tends to be the state trooper, sometimes acting as counselor and mediator as well as arresting officer, but without comprehensive training that would make his difficult role meaningful.

Cohn compared the state trooper to the childhood comic book figure of Superman, who would swoop down in the imaginary town of Metropolis and carry the bad guy off to an unseen place.

"When the trooper flies in to arrest someone in the village, it's like Superman," said Cohn.

The Native and the Law

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State Troopers. One Native out of about 125 troopers.

Note: (Leonard Hamilton who runs the Fairbanks Native Association's employment service pointed out that there has been a position open on the city force for a Native policeman for as long as two years. There has not been one applicant for the position.)

Q: The FNA's researcher discovered that 70% of all arrests are alcohol related, and 70% of all arrests are Natives. Do Natives drink more or are they arrested more?

K: My own feeling is that they comprise a large per cent of unemployed and they spend more time in the downtown area drinking. A lot of arrests are repeat offenders. You spend a lot of time picking up the same people. And you have more arrests in winter. You find a person passed out on a lawn somewhere and you can't find out where he lives, you're going to put him in jail.

Q: How strong is the policy to crack down on bars serving a drunk?

K: It's hard to prove. There are so many bars, it's hard to pin down which bar. If someone puts their head down on a bar and passes out, the bartender, if he's sharp, will see our hats as we come in the door and just whisk the glass under the bar. Then he can say: 'the guy wandered in here and passed out.' How are you going to prove he served him a drink?

C: The State Troopers get very few Drunk In Public charges, and many, many drunk driving arrests. Very little of the percentage of drunk driving arrests are Natives.

Note: (Several of the young Natives said cynically: 'That's because we can't afford the cars.')

K: Most arrests are made in the immediate core area, Beat One, First Avenue to Sixth and from about Noble to Barnett. The only place the city has footmen is that area.

Q: If a Native was drinking at the Steak Pit or the Switzerland, would he be as likely to be arrested there?

K: How many times do you walk in the Switzerland and see someone passed out on the bar? The deployment of policemen is based on trouble spots. The crime rate against persons is worse in the core area — assault, muggings, stab-bings, etc.

Q: Could somebody merely drunk in public be brought to the Native Center?

N: This was done the other day. It was no one's official job to babysit a drunk so it fell on whoever happened to be around.

Q: I'm concerned about violence and violent deaths. How much attention have Native people had? Isn't the attitude: 'Well, this is a Native and nobody is going to do anything about it?' (One of the staff members at the Center was mugged and there was nothing written up in the local

"The Eskimo word for trooper is — a person who comes and takes someone away."

Bush justice in Alaska is not a comic book story. Each citizen is guaranteed equal protection under the law, whether he lives in Allakaket or Anchorage, in Savoonga or Sitka, in Ft. Yukon or Fairbanks.

There are no Supermen in Alaska, only a handful of sincere and dedicated men, working to make bush justice no longer comic or tragic but an accomplished reality.

papers. The question was asked if that would be the case if the victim had been a white businessman.)

K: I don't really think that attitude exists. If you knew how many 12 hour shifts had gone in on this latest homicide (the murder of a young Native woman, Alice Baldwin). Policemen have been working overtime. I'm sure that case is getting top priority treatment.

N: The police want to know where she's been living, where she was seen last. This is our problem. We're transient, we're a mobile people. We come out of the village, stay in Fairbanks for a while, then take off for Anchorage. A white girl was killed in Anchorage a short time back and it was all over the front page. Not long afterward, a Native girl was killed behind the Green Dragon and it was a little story on the back pages. Maybe if it had been printed on the first page, it might have helped people identify her, who she was with.

K: All police reports are available to the press. We have no control over which the newspapers choose to print.

Q: Can most Native people you deal with understand English?

K: Yes, I would say so.

Q: Why do you think there were no takers for the job of policeman?

N: It's a white man's occupation.

Q: Why do you consider it a white man's occupation?

N: (with a shrug) White man's laws . . . white judge.

Q: What's Native law? What's Native law on 2nd Avenue?

N: There is no Native law on 2nd Avenue.

N: If you screw up in a village, you know what you've got to do. People have been sent to the 'boonies.'

Q: What's the boonies? (The speaker merely pointed off)

NEXT WEEK: 2nd Avenue

Chief Justice Dies . . .

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chained to a bulldozer because no jail or holding facility was available. He may, however, have been luckier than the man locked in an outhouse until he could be moved to Anchorage for trial.

In Barrow, Magistrate Sadie Neakok held court and operated from her home until January, 1972, when the state finally leased office space in the post office building.

Even that space is described as having these deficiencies:

1. No courtroom or jury space;
2. Inadequate court facilities for clerical work area and no space for recording functions;
3. Unsatisfactory reference library, both as to content and space provisions;
4. No space for ancillary court agencies.

Similar deficiencies were described for Bethel, Kotzebue, Sitka, Kenai, Palmer, Seward, and Wrangell. Boney asked for a three-year building program to upgrade these, as well as to construct 50 bush-justice buildings in smaller communities.

These would be multi-purpose, small court buildings that would include holding cells and offices and would be constructed with village labor.

Boney was active in improving procedures and training for magistrates and for greater utilization of the village police-

Alaska Does Well On Immunization

Alaska is doing well in maintaining immunization levels, reported Frederick McGinnis, Commissioner of Health and Social Services, but there is need to protect more children against measles and polio, especially those under age 5 in our urbanized areas.

A recent report from the Center for Disease Control notes that Alaska ranks seventh, with 86 per cent of the children ages 1 to 4 protected against measles.

For polio, Alaska is the third highest state, with 83 per cent of children in that age range protected.

The intensive campaign to immunize Alaskan children against rubella (German measles) has resulted in 99 per cent of the children to age 10 protected.

Appoints Editor . . .

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zine; Amos Wallace, Tlingit leader and totem carver; and Howard Rock, editor of Tundra Times.

"That should round it off pretty good, don't you think," said Egan.

Rock accepted the appointment to the commission saying, "It is really an honor."

He commented to the Governor, "We have to work today, you know."

"You're not the only one," said Egan. "The governor has to work seven days a week."

Egan asked how large the Tundra Times' staff was at present and upon hearing that it was up to five people, commented, "You're getting up there in the capitalist category."

Across a state that was celebrating Labor Day, two laborers — one, governor of the largest state; the other, editor of the Eskimo, Indian, Aleut newspaper, were not having a holiday but were laying the groundwork for the selection of historical sites for the state of Alaska.

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man concept. He recommended modernization of the entire court system, using computers, microfilm, audio and video tape recorders wherever it would result in a more efficient, speedier justice system.

He proposed micro-filming land records throughout Alaska. He believed that land documents, deeds, and so forth are the only way people, especially rural people, have of defending their property.

In an era of exploitation, an oil rush, or something of like nature, Boney was concerned that fires could be set deliberately to destroy present records for an entire area. Micro-filming would prevent such destruction.

The Chief Justice also sponsored a proposal to establish a Law Center for the State of Alaska. Such a center would be used to train para-professional personnel for use throughout the judicial system, as well as to further education within the legal profession, and to give legal training to the general public.

Referring to the urgency brought about by the Native claims settlement, Boney said, "It is necessary that our Native citizens be instructed in the full measure of their legal rights, both civil and criminal, if we are to have equal justice for all state of Alaska."