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1980

## Justice

John E. Angell

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### **Summary**

This issue paper, prepared for the Future Frontiers Conference held December 5–8, 1979 in Anchorage to provide guidance to the legislature regarding allocation of North Slope oil revenues, discusses the quality of justice services provided in Alaska and the relative equity in which they are delivered throughout the state and suggests improvements.



Legislative Council  
State of Alaska

A Conference on Alaska's  
*Future Frontiers*

~~ALASKA~~

~~in Anchorage Hotel~~

~~107.ember 6,7,8 1979~~

~~44784~~

# FUTURE FRONTIERS AGENDA

## Anchorage Sheraton Hotel



### Wednesday — December 5, 1979

Noon — Registration and material distribution.  
4:00 P.M. Delegate Room and Group Assignments  
Yukon Room

### Thursday, December 6

8:30 A.M. Convocation Breakfast  
Welcome and Remarks by  
Senator George Hohman, Jr.,  
Representative Russ Meekins and Ed Merdes  
Howard Rock Ballroom

10:00 A.M. Assignment of Group Leaders, Editors  
Kuskokwim West Room

10:30 A.M. Work Groups begin  
Alpha — Room 311  
Beta — Kuskokwim East  
Gamma — Kuskokwim West  
Delta — Yukon Room  
Epsilon — (to be announced)  
(Groups will retain these meeting room  
assignments throughout the conference)

1:00 P.M. Lunch

2:00 P.M. Continue work groups and comment solicitation

6:00 P.M. Adjournment

8:00 P.M. Banquet — Howard Rock Ballroom  
Keynote Speaker: R. Buckminster Fuller

### Friday — December 7

9:00 A.M. Continuation of Work Groups  
(same room assignment)

Noon Lunch

1:00 P.M. Work groups and organization of comments

6:00 P.M. Recess for Dinner

8:00 P.M. Resume work groups and comment organization

### Saturday — December 8

9:00 A.M. Summary of delegate work reports  
Howard Rock Ballroom

Noon Press Conference on findings

1:00 P.M. Conference conclusion

January 14, 1980 — Report to the Alaska Legislature

The Future Frontiers Conference, 1979  
is dedicated to  
Gene Guess  
Former Speaker of the  
Alaska House of Representatives

*This conference, Future Frontiers, is a continuation of a process begun ten years ago with the convening of the Legislative Council / Brookings Conference on the future of Alaska.*

*Then as now, Alaskans were asked to determine their State's most pressing needs and to provide guidance to the Legislature regarding allocation of North Slope oil revenues.*

*Many problems identified by the 1969 conferees have been addressed and substantially corrected by legislative action since that time, but there is still much before us in the 1980's.*

*As preparation for this conference, the series of issue papers contained in this book have been solicited from individuals who have experience in Alaskan affairs. (A supplement of papers is also provided; those that did not make the typesetting deadline.) Their format should provide background, present status and proposed directions for the conference issues. We commend these Alaskans for providing this timely material for the Future Frontiers delegates and the legislature.*

PROPERTY OF  
SCHOOL OF JUSTICE

Senator George Hohman Jr.  
Representative Russ Meekins  
Co-Chairmen  
Future Frontiers Conference

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Tlingit, Haida and Yupik Eskimo graphics  
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Library, Juneau

# JUSTICE

by

John E. Angell

## Introduction

This paper is not intended to deal in any finite way with the concept of "justice." Rather, it will be directed at a general gross diagnosis of the quality of justice services provided in Alaska and relative equity with which these services are provided to the people throughout the state. In main, the focus will be on public safety and legal services and police, legal and correctional agency operations. Suggestions for future improvements will be presented in the concluding section.

## Existing Situation

When viewed as a whole, the State of Alaska seems to fall within the range of normal in terms of its crime rates and justice machinery.<sup>1</sup> It is true that overall the state has higher levels of interpersonal crimes such as homicides, assaults and rapes per population than other states; however, this situation might be explained by the existence of a higher proportion of youth, higher mobility of citizens, a disproportionately higher ratio of males to females and other factors that are normally associated with higher crimes.<sup>2</sup>

Further, it is also true that the emergency response time of police seems to be slower than normal for most American police departments. This condition can, in part, be accounted for by the sparsity of population within the huge geographic area of the state.

The formal description of the Alaska justice system (i.e., police, prosecutorial and defense agencies, courts and correctional operations) is, however, consistent with the highest established standards.<sup>3</sup> Police and legal agencies are staffed by merit methods rather than election processes. Judicial positions are filled by a modified

Missouri system.<sup>4</sup> Corrections is a state responsibility with even the temporary detention facilities overseen by the Alaska Division of Corrections.<sup>5</sup> Agencies of the justice system are provided professional support and research activities by the Alaska Criminal Justice Planning Agency, Judicial Council, Police Standards Council, Council on Judicial Qualifications and Court Administration. Outward appearances reflect a sound justice situation in the state.

Such outward appearances are, however, deceiving. Information accumulated over the past decade provides considerable evidence of substantial and serious problems in justice operations of Alaska.<sup>6</sup> The problems stem from the most fundamental factors.

Generalities about Alaska justice and the formal statewide justice operations conceals the existence of two separate and distinctly different justice situations in Alaska.<sup>7</sup> People who are intimately familiar with the state give subtle recognition to the two separate systems when they refer to predominately white, commercial communities of the state as "towns" or "cities" and Native communities of similar size as "villages;" the justice operations in the urban areas of the state as "criminal justice" and those in rural areas as "bush justice;" and police officials in Native cities as "village police" whereas police in predominately non-Native communities are called "police officers." Such dichotomies may, if properly used, serve worthwhile and righteous purposes; however, in this instance they are a reflection of substantial discrepancies between urban and rural areas. Not only are the justice related problems in rural communities more serious, all available research supports the conclusion that rural communities receive markedly inferior legal protection and public safety services.<sup>8</sup>

Given the space allocated for this paper, it is not possible to provide a complete review of the existing differences; however, the extent of differences is reflected in crime and public safety statistics. Native communities have a rate of deaths from accidents and suicides which is nearly four times the rate of urban areas of the state.<sup>9</sup> The fire loss rate in rural communities is reportedly over twice that of urban areas.

While property crimes in rural Native communities seem to occur less frequently (perhaps a consequence of less property and closer interpersonal relationships), crimes of violence seem to be among

the highest in the United States. A comparison of 1977 statistics for homicide, rape and aggravated assault is contained in the following table. The Native communities are obviously in some respects more hazardous places to live than are the urban communities of the state.

**COMPARISON OF ALASKA VILLAGES,  
STATEWIDE, AND NATIONAL CRIME RATES\***

Crime Category	Rates per 100,000 population		
	Alaska Villages	Statewide	National
Homicide	28.4	10.8	8.8
Rape	99.2	51.6	26.4
Aggravated Assault	326.0	284.0	228.6

Sources: Village statistics obtained from police officials in approximately 50 Native cities; Statewide UCR Reports.

The question which often arises when such statistics are presented is, "Why hasn't this situation been recognized previously?" The answer is simple, the data reporting and statistical methods have served to conceal the extent of the differences.<sup>10</sup> First, most Native communities do not have the resources to accumulate complete statistics. In many communities even paper and pencils are in short supply. Second, the importance of statistical reporting is, at times, not recognized. Third, the crime statistics accumulated provide statistical breakdowns by non-Native but not by Native communities. For example, crime statistics for predominately non-Native commercial centers and communities such as North Pole, Whittier and Homer are reported by each city; however, the crime statistics of Native cities are lumped into a category, "The Rest of the State."<sup>11</sup> This procedure results in it being impossible to separate the crime statistics of Native cities from rural suburbs such as the Mat-Su Valley.

Consequently, the crime situation in Native communities is invisible to planners and policy officials.

Raw statistics concerning the hazards to personal safety in Native communities do not reflect the scope of the problem. Many

Native communities are in remote areas of the state and have neither roads nor regularly scheduled transportation to other communities. Approximately one-fourth of these communities have neither part-time nor full-time resident police.<sup>12</sup> Almost none of the communities have even a single resident with legal education.<sup>13</sup> No correctional officials reside in any of the communities.<sup>14</sup> Approximately one-half of the communities do not have secure, inhabitable facilities for the temporary detention of disorderly, intoxicated or dangerous persons.<sup>15</sup>

Further, the communications equipment available to most communities is extremely unreliable and, when terrorizing or life-threatening situations occur (as they sometimes do), requests for outside assistance can not be expeditiously communicated to a support agency such as the Alaska State Troopers.<sup>16</sup> Instances of intoxicated, armed persons shooting at random in a Native community while the communications system is inoperable are far too frequent. Requests for police assistance are on occasion sent via the mail plane. The Alaska State Troopers are unable to respond to requests from Native Communities in less than 24 hours in well over 50% of the cases.<sup>17</sup>

The present justice system organizational arrangements result in the personnel who are assigned to assist remote communities being located in urban and commercial centers of the state.<sup>18</sup> Almost none of the remote Native communities of the state have been visited by a state lawyer, prosecuting attorney, public defender, judge or corrections official within the past year. Prosecutors give the impression that they prefer to deal with Alaska State Troopers rather than local "village" police officers. Defense attorneys who are assigned to defendants from remote communities frequently meet their clients for the first time in court. Criminal trials are seldom held in the community where the crime occurred and civil trials are always held in urban centers.<sup>19</sup> Correctional officers conduct presentence investigations and probation supervision of residents of remote communities by telephone.<sup>20</sup>

Although most residents of the rural Native communities are not aware of the relative seriousness of the crime situations in their communities, community officials do not have a high regard for the quality of justice they receive. One assessment of their opinions indicated 43% of the village officials interviewed indicated the educa-

tional services in their community was "good," in comparison with 27.5% who reported the magistrate services were good, 25.5% reporting the Troopers provided good services, 15.7% who reported good probation services, 7.8% reporting good defense services, and 5.9% indicating the existence of good prosecution services.<sup>21</sup>

It is apparent that people living in rural parts of the state are presently dissatisfied with the quantity and quality of justice services they receive. At the same time, many are concerned about the possibility of having "Anglo" justice operations imposed on Native communities without providing modifications which are more compatible with traditional customs and practices. Since the traditional social control methods vary from one region of the state to another, any interface must involve assessment of the attitudes and methods existing in different parts of the state.<sup>22</sup>

There can also be little doubt that the state has an obligation to provide essential justice services to people in areas of the state where no borough government exists. The Alaska Constitution provides:

The entire state shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law.<sup>23</sup>

(T)he legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility.<sup>24</sup>

Even without this constitutional obligation to provide necessary services in the rural regions of the state, the state must provide equal protection of the law. The issue concerning whether minimum standards in respect to justice services are being met is yet to be raised in court. However, clearly urban residents are receiving substantially more services than their fellow citizens in remote Native communities.

### **Improvement Efforts**

The Alaska Department of Public Safety seems to be the state agency with the greatest awareness of the justice problems in rural

Alaska. This awareness may stem from the fact that State Troopers have the most frequent contact with remote communities. Trooper personnel have been in the forefront of advocating changes. They have established and conducted training programs for village officials, police officers and magistrates.<sup>25</sup> They have assisted in the establishment of "public safety" buildings in many Native cities. They have supported the movement of other justice personnel into Native communities.

The efforts of the department have no doubt resulted in some substantial improvements in justice services in rural communities. The one criticism which can be made of its early efforts relates to its exclusive concern with the institution of a complete "Anglo" justice model without substantial consideration of its compatibility with traditional social control practices.

The Alaska Court System has, in recent years, experimented with the use of local dispute mediation boards.<sup>26</sup> The remains of some of these efforts are still operating in some communities. The experiment was not expanded to other communities after the completion of the experiment. Similarly, the court system has attempted to make use of bilingual "interpreters" in efforts to improve the quality of justice for those who do not speak English as a primary language.

The state legal units and corrections have in recent years increased the number of personnel they have assigned in the commercial centers which serve remote communities.

And in general, there has been a growing recognition of the problems. Earlier this year the Alaska Governor's Commission on the Administration of Justice officially established problems of justice in the rural areas as its top priority. However, this agency is hampered by limited resources.

The problems are far larger than can be solved by single executive agencies working alone. Any substantial improvements in the present situation will depend on strong commitments by the executive, legislative and judicial branches of Alaska government.

### **Directions**

Two of the most fundamental concepts underlying Alaskan

government involve 1) the right of all persons to equal rights, opportunities and protection under the law, and 2) the right of citizens to enjoy maximum responsibility and participation in local self-government. Both concepts are yet to be fully realized in regard to justice system operations in the remote Native communities of Alaska. The achievement of these rights has in the past been hampered by 1) inadequate understanding of the inequalities which existed, and 2) insufficient financial resources. These conditions no longer exist and a high priority for the future of the State of Alaska should be given changing the present situation.

There are a number of reasonable actions which might be taken toward the goal of enhancing equal protection and justice for Alaska. Comprehensive policies that seem logical to me include:

1. *One unit of state government should be given the responsibility and resources for overall coordination and planning for the improvement of public safety and justice in the state.* Individual agencies of state government lack the broad perspective needed to bring about the changes needed. They are at times blinded by the traditional organization and operational practices of their speciality. The organization designs needed for providing justice services in the rural communities of the state will no doubt be unique and unlike any arrangements that presently exist. The existing state agency with the most potential for overseeing a reorganization of justice operations is the Governor's Commission on the Administration of Justice and its administrative unit, the Alaska Criminal Justice Planning Agency. These units should be reorganized as independent from the control of any single justice agency of the state and given responsibility for providing planning and overall coordination of efforts to reorganize justice operations. It should be expected to advise the legislature on resource and policy needs.

2. *A foundation level of justice services should be provided in every region of the state.* This foundation should include the decentralization of state police, legal, judicial and correctional operations to provide complete public safety support within well defined regions that have distinct and reasonably homogenous characteristics. All state justice

operations should have contiguous regional boundaries for providing series and the accumulation of data about justice operations. The boundaries of these decentralized regions might be similar to the Native corporation boundaries. A centrally located staff public safety facility for state provided justice operations should be established in each region. These regional state agencies should provide support for local communities. State police should be able to respond immediately when their assistance is sought by a local community. A district or Superior court judge should be assigned to each region and should systematically circulate from community to community within the region conducting necessary judicial proceedings. A correctional generalist should be assigned to each region to enforce correctional standards, provide assistance to local communities, and coordinate the state's correctional efforts in the region.

3. *The state should support the design and institution of a reliable emergency communication system for each region of the state.* The planning and implementation of this operation will require considerable investment. Given the distances and hazards of rural Alaska, it is imperative that such a system be developed and kept in superior working order.

4. *The state should provide a foundation of financial support for public safety and justice support to every incorporated community in the state.* Such support should be similar to revenue sharing which is woefully inadequate for communities without other economic means. Rather than based on per capita payments the Justice Foundation Grants should be sufficient to provide a minimum level of local justice services. As a starting point, I would suggest the complete funding of one police, emergency service or public safety position for each community, funds for basic operational and records requirements, and a correctional services grant which each community must use on the provision of local correctional services. The average cost of this package for each rural city would be approximately \$50,000. In order to encourage local communities to accept responsibility for handling their own problems, services provided by the state might be charged against their correctional ser-



vices grant. Communities should be given the authority to, within limits, use the justice grants in the manner most appropriate to their communities. For instance, if a community felt the need for temporary detention facilities, it could use a portion of its correctional services grant each year to pay for the construction of such facilities. On the other hand, a community might also invest in community correctional programs if that was deemed most appropriate.

**Footnotes**

<sup>1</sup>See *Alaska Criminal Justice Plan*, (Juneau: Criminal Justice Planning Agency), 1978.

<sup>2</sup>Ibid, pp. 32-48.

<sup>3</sup>See National Advisory Commission on Criminal Justice Standards and Goals reports, *Criminal Justice System, Police, Courts, Corrections*, (Washington: U.S. Government Printing Office), 1973, and *Alaska Criminal Justice Plan*, op. cit., pp. 89-178, 1978.

<sup>4</sup>Duffee, Hussey and Kramer, *Criminal Justice: Organization Structure and Analysis*, (Englewood Cliffs: Prentice-Hall), p. 151, 1977.

<sup>5</sup>See Analysis of Alaska Jail Situation, (Juneau: Criminal Justice Planning Agency), 1977. This staff report contains a summary of legislation related to Alaska corrections.

<sup>6</sup>Professors Stephen Conn and Arthur Hippler prepared some of the most comprehensive descriptive material available in the early 1970's. Among their publications are "An Action Plan for Village Justice," (Fairbanks: UA, ISEGR), 1974, and Conn's "Comparative Analysis of ABA Standards in Light of the Attendant Problems in Bringing Justice Services to Rural Alaska Natives, 1975. Also see the summary of the history and findings of "Bush Justice" conferences in Evan McKenzie, *The Report of the Third Bush Justice Conference*, (Anchorage: Alaska Federation of Natives), 1976.

<sup>7</sup>John Angell, *Alaskan Village Justice*, (Anchorage: Criminal Justice Center), 1979.

<sup>8</sup>Kraus and Buffler, "Alaska Deaths by Violence," *Coping*, (publication of Alaska Mental Health Association), pp. 14-19, 1978.

<sup>9</sup>*Alaska Village Justice*, op. cit., pp. 55-58.

<sup>10</sup>See *Crime in Alaska*, (Juneau: Criminal Justice Planning Agency), 1978.

<sup>11</sup>John Angell, *Alaska Village Police Training*, (Anchorage: Criminal Justice Center), 1978.

<sup>12</sup>*Alaskan Village Justice*, op. cit.

<sup>13</sup>Ibid.

<sup>14</sup>*Analysis of Alaskan Jail Situation*, op. cit.

<sup>15</sup>*Emergency Medical and Criminal Justice Communication*, op. cit.

<sup>16</sup>*Alaskan Village Justice*, op. cit.

<sup>17</sup>Stephen Conn, *Report to Chief Justice*, (unpublished paper prepared August 22, 1974).

<sup>18</sup>Ibid.

<sup>19</sup>*Alaska Village Justice*, op. cit.

<sup>20</sup>Ibid., p. 63.

<sup>21</sup>Conn and Hippler, "Northern Eskimo Law Ways and Their Relationship to Contemporary Problems to 'Bush Justice,'" (Fairbanks: ISEGR Occasion Paper No. 10), 1973; Leonard Pospisil, "Law and Social Structure Among the Nunamiut Eskimos." *Cultural Anthropology*, (New York, N.Y.: McGraw Hill), 1964.

<sup>22</sup>Article X, "Local Government," Section 3.

<sup>23</sup>Article X, "Local Government," Section 6.

<sup>24</sup>*Alaska Village Police Training*, op. cit.

<sup>25</sup>Alaska Court System Annual Report, (Anchorage: Administrative offices of the courts).

**Biographical**

The author is a Professor and Director of the Justice Center, University of Alaska, Anchorage. He holds baccalaurate and masters degrees in law enforcement administration and a Ph.D. in Administration from Michigan State University. He began service in the justice field as a police officer in Ohio, and has served in management positions with the Dayton, Ohio, police department and as an immediate subordinate to the Mayor of Portland and the Commission Chairman in Multnomah County, Oregon, prior to coming to Alaska in 1975. He has served as a consultant to agencies ranging from the President's Commission on Law Enforcement and the Administration of Justice to local justice organizations throughout the United States. He has conducted research on justice operations throughout the country, and his most recent manuscript, *Democratic Cops*, is currently being considered for publication by Prentice-Hall.

