



AVCP TRIBAL SAFETY AND WELLNESS PROPOSAL PHASE ONE

United States Attorney General, William Barr
United States Senator, Lisa Murkowski

Bethel, Alaska

Friday, May 31, 2019



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FRIDAY, MAY 31, 2019

11:30 am	Lunch at Moravian Church – Bethel, Alaska
11:40 am – 1:00 pm	AVCP Tribal Safety and Wellness Proposal Phase One Presentation Vivian Korthuis, AVCP CEO James Paul, AVCP Executive Board Vice-Chair Brent Latham, AVCP <i>Interim</i> COO Martha Whitman-Kassock, AVCP Program Administrator Lauri Weston-O'Brien, AVCP Program Administrator Melanie Fredericks, AVCP Healthy Families Department Director Rick A. Garcia, AVCP Tribal Justice Department Director
1:30 pm	Depart Bethel for Napaskiak/Yuut Elitnaurviat Tour
2:00 pm	Arrive in Napaskiak
2:15 pm	Native Village of Napaskiak Meeting
3:45 pm	Depart Napaskiak for Bethel
4:15 pm	Arrive in Bethel



AVCP TRIBAL SAFETY AND WELLNESS PROPOSAL PHASE ONE

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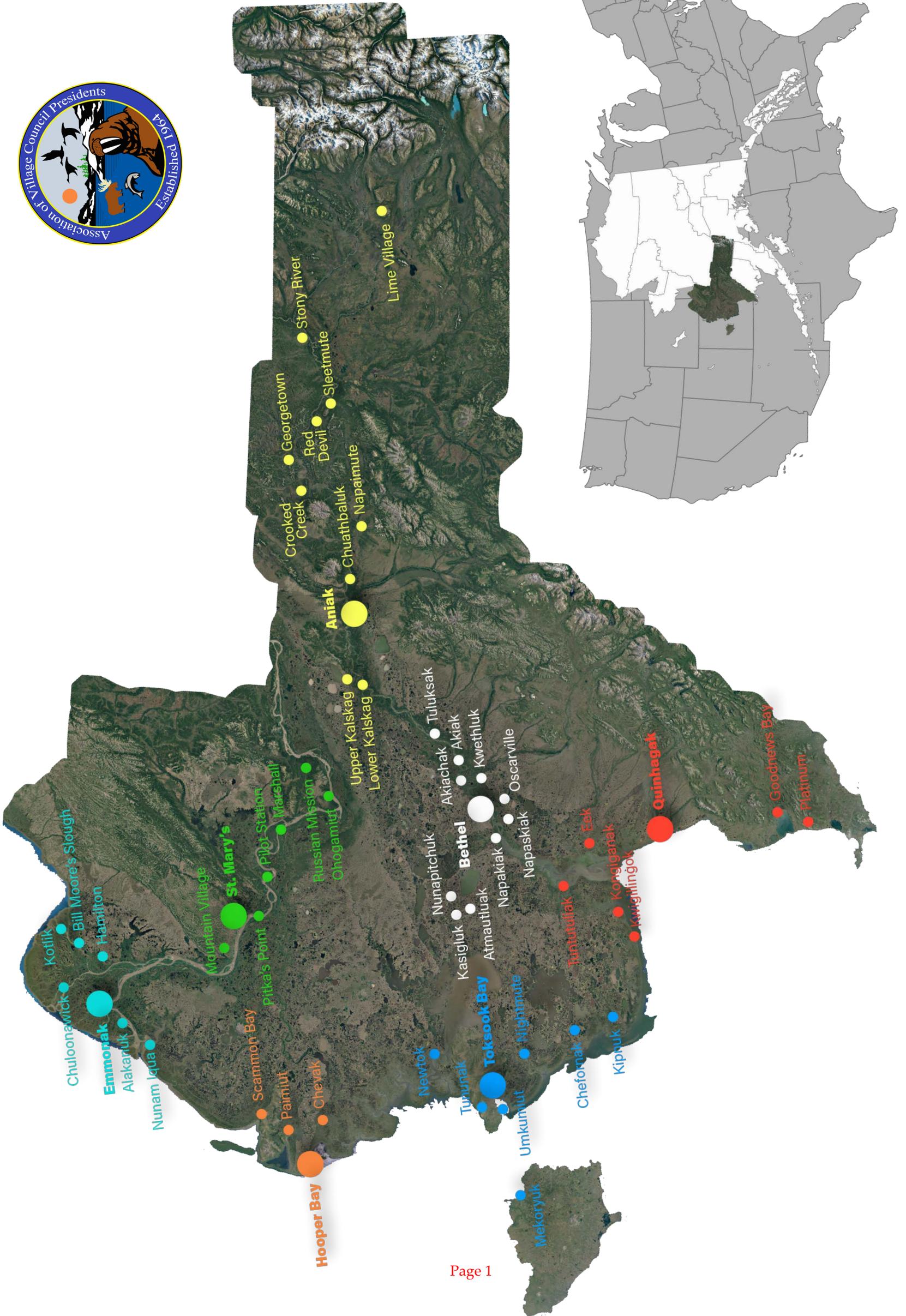
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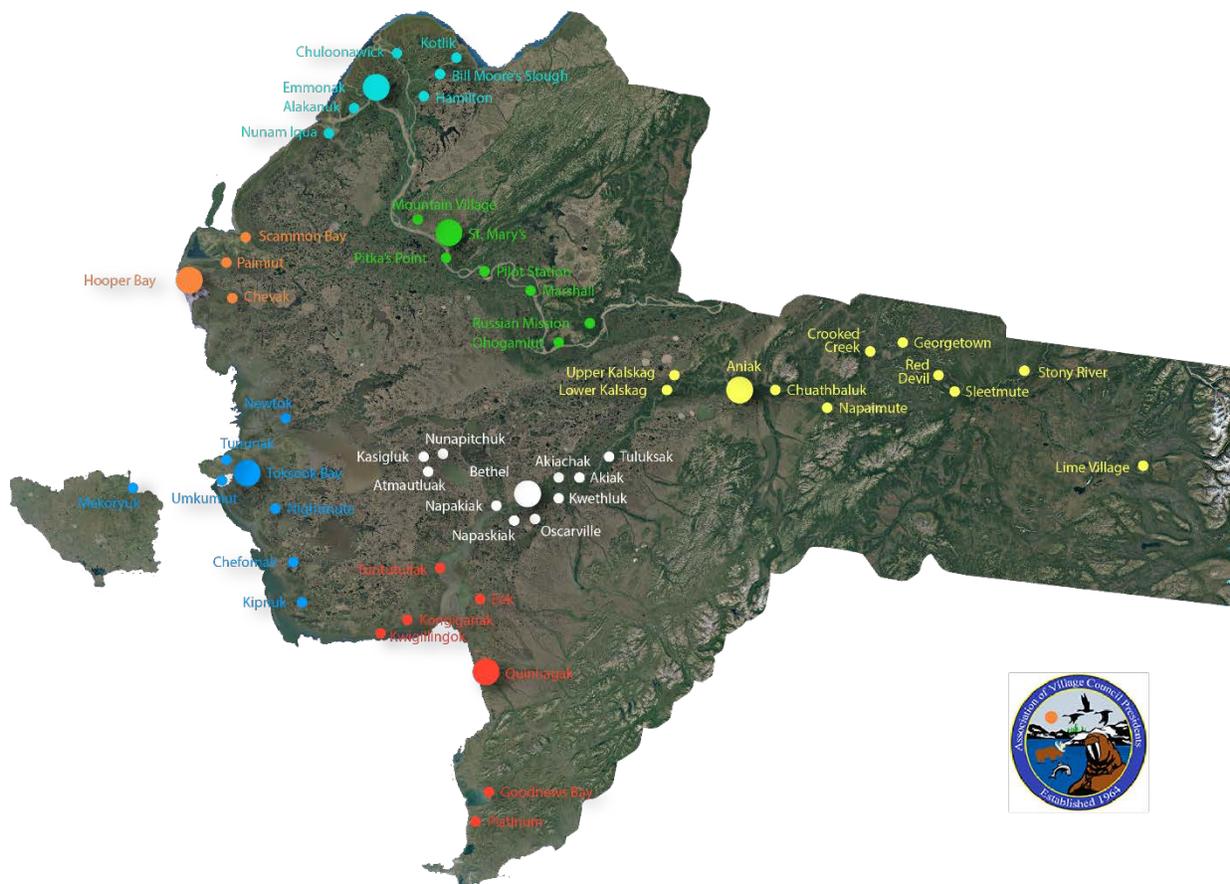
Association of Village Council Presidents Tribal Safety & Wellness Proposal: Phase One

Introduction

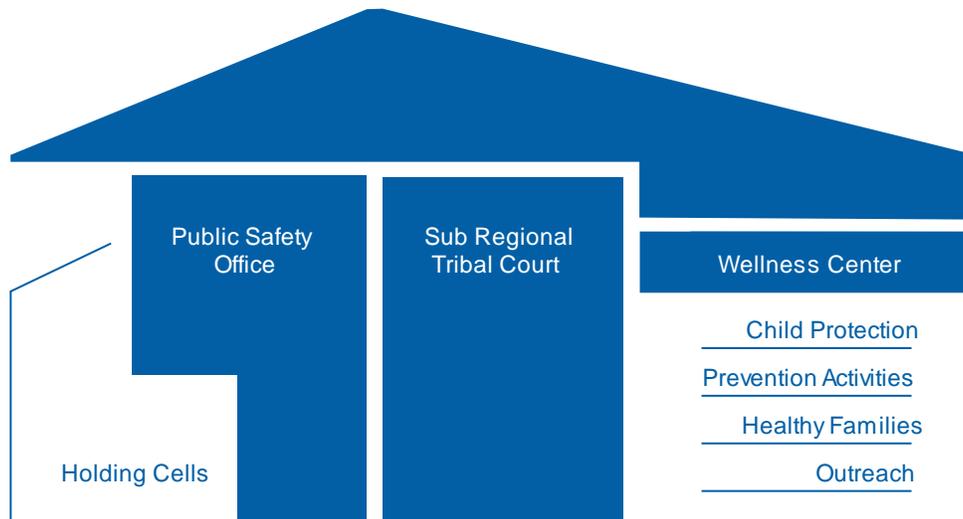
The Association of Village Council Presidents (AVCP) is the largest tribal consortium in the Nation, with the Region's 56 federally recognized Tribes as members. The Yukon-Kuskokwim Delta (YK-Delta), located in Western Alaska, is part of the Arctic and consists of 48 physical communities which lie along the Yukon and Kuskokwim Rivers and Bering Sea. Spread across an area the size of the State of New York, these communities are not connected to each other by a road system. The 27,000+ residents' only access to each other and the rest of the State is by open river in the summer, ice road or frozen tundra in the winter, or plane.

AVCP's long-term goal for comprehensive tribal public safety in the YK-Delta is to provide full-time law enforcement and access to justice in the tribal court system for all tribal communities.

AVCP's immediate proposal to address the Region's public safety crisis is to provide public safety coverage and access to justice through a sub-regional model.



Phase One: Sub-Regional Tribal Safety & Wellness Centers



AVCP’s Public Safety Taskforce proposes a holistic approach to public safety in the YK-Delta by basing services out of seven sub-regions (see map). Each Sub-Regional Tribal Safety & Wellness Center will serve six to eight federally recognized Tribes and/or tribal communities in the AVCP-Region. The seven centers will provide full public safety coverage to all 56 tribes/48 communities in the YK-Delta.

Sub-Regional Tribal Court

- Panel judges are cross-trained on individual tribal codes; judges rotate in from each Tribe.
- Panels hear child protection cases; family law cases (adoption, custody, divorce, child support, name change, and guardianship); domestic violence cases (protective orders); and criminal cases (criminal violations of protective orders and tribal criminal codes).
- Alternate panels serve as court of appeals.
- Panels also hear cases referred through State of Alaska’s Civil Diversion Agreement.

Sub-Regional Public Safety Office

- Three tribal law enforcement officers based in each sub-region.
- Provide coverage throughout the sub-region on a TDY (Temporary Duty Yonder) basis (respond to crimes, community policing, prisoner transport).
- Employ jail guards on an as-needed basis.
- Officers are cross-deputized under agreement with State of Alaska (can enforce both State and Tribal law).

Holding Facilities

- Sub-regional short-term holding facilities for three to four prisoners at a time.
- Temporary holding facilities in each community.

Wellness Center

Tribal Child Protection

- Houses the Community Family Support Specialist (CFSS) supervisor who supervises six to eight village-based CFSS workers.
- CFSS workers are case workers in tribal child protection cases and are case managers/liaisons for ICWA-compliance in State of Alaska child protective cases when Tribes have intervened.

Healthy Families

- A holistic approach to family and community wellness through the sharing, teaching, and practice of traditional values.
- Offer workshops in villages, sub-regions, and Bethel.
- Sponsor cultural activities for families and children that include connecting them with elders, sharing local plant knowledge, and other activities rooted in our indigenous values.

Prevention

- Preventing future Tribal or State child protective services involvement through early intervention for at risk families.
- Refer families to AVCP services (e.g. Benefits; Vocational Rehabilitation; Healthy Families; Tribal Workforce Development; Education, Employment and Training; Child Care, etc.).
- Provide one-on-one coaching and mentoring for parents as needed.

Safety Outreach

- Provide All Terrain Vehicle (ATV) safety courses and safety gear (e.g. helmets).
- Perform winter trail marking and maintenance for faster response time to public safety emergencies and to reduce injuries and deaths that occur when traveling between villages on ice road trails.

Public Safety Housing

Tribal Law Enforcement Housing

- Provides housing for up to three law enforcement families.

Temporary Safe House

- Provides a temporary shelter for victims of domestic violence who need an immediate safe place to stay.



Phase One Priority Needs

Estimated Cost: \$130 Million

Infrastructure

Current: No adequate multi-function tribal court/public safety buildings exist in the AVCP Region (see <http://www.avcp.org/avcp-public-safety-facilities-assessment-report/>).

Proposal: seven centers – one in each subregion (see map).

Current: Housing is a severe impediment to recruiting and retaining tribal law enforcement personnel. There are only two women’s shelters in the entire AVCP-Region (Tundra Women’s Coalition and Emmonak Women’s Shelter).

Proposal: seven multi-housing units – one in each subregion (see map).

Personnel

Current: Only six full-time law enforcement officers for 48 communities; no full-time court staff in any community.

Proposal: 21 full-time law enforcement officers serving 48 communities; 7 full-time court staff for 7 sub-regional courts.

Training

Proposal: Intensive training/cross-training and ongoing technical support for tribal court judges and court staff provided by AVCP’s Tribal Justice Department. Yuut Elitnaurviat (<http://yuut.org/>) will provide training for tribal law enforcement officers (in collaboration with AVCP’s Tribal Justice Department for cross-deputization training).



AVCP Public Safety Solutions From Our Region, For Our Region

Service Division

Tribal Justice Department

Program Purpose:

To assist member tribes in enhancing, developing, implementing and re-establishing tribal court systems, drafting and writing tribal codes, providing access to tribal judicial systems, promoting community wellness through Circle Sentencing, providing real-time technical assistance to each AVCP member tribe in updating codes/ordinances, constitutions and conducting Tribal Court related training. The department is the liaison between tribes and the Bureau of Justice Assistance and Bureau of Indian Affairs Tribal Justice Support.

Contact: 907-543-8550, Tribal-Justice@avcp.org

Service Delivery Model

Village	Sub-Regional	Based in Bethel	Beyond the Region
Provide real-time technical assistance to 56 Tribes, located in 48 Villages, to Tribal Court Staff/Judges	7 Sub-regional Tribal Safety & Wellness Centers that incorporates 7 Sub regional Tribal Courts	Tribal Justice Headquarters – 4 total staff, including 2 Attorneys	Representation of AVCP Member Tribes' interests within Alaska and Nation-wide
Assist with court capacity, infrastructure building, and funding distribution	Regional panel Judges – cross-trained in individual Tribal Codes	Tribal Justice Trainings – for Tribal Court Judges/Staff and Tribal Law Enforcement Officers	Participation in NIHB Suicide Prevention Task Force
Assist with code development, drafting and revising of codes, and conflict of law checks	Training opportunities forwarded to Tribes; Funding opportunities forwarded to Tribes	Coordination of services and delivery of services with all AVCP departments	Facilitation of partnerships with other Tribes, Tribal Organizations w/in Alaska and in the lower 48
Provide alternatives to sentencing training and training for personnel/staff		Increased collaboration with State entities	Participation/representation in Tribal Consultations and hearing testimony

Service Delivery Data

21 Tribes participated or scheduled for BIA Tribal Court assessment		4 trainings schedule - 2019	
20 active Tribal Courts/15 Tribal Councils that act as Tribal Courts/21 Tribes that are either inactive or not yet established		1 st training: 112 registered/87 attended/35 Tribes represented	
		2 nd training – 106 registered – 100 attended/36 Tribes represented	

AVCP Division Impact Statement

How the Tribal Justice Department impacts Public Safety in our Region

Tribal court systems are a vital and necessary resource for the pursuit of criminal justice. Through strengthening our Tribal Courts and fostering trust in Tribal Courts, it will help to improve public safety in our region. Additionally, by providing culturally-relevant methods of addressing public safety through our Tribal Courts, it will assist with keeping Tribal Members with their families, communities, and Tribes.

AVCP Public Safety Strategy for our Region

How Tribal Justice Can Support Public Safety in our Region

AVCP Public Safety Solutions From Our Region, For Our Region

- 1. Holistic Approach:** Educate Tribes, with the hope that Tribes will integrate alternative sentencing initiatives within their Tribal Courts: including, Circle Sentencing/Healing Circles; Healing to Wellness Courts; Juvenile Courts; Participation with State Civil Diversion agreement; Participation with Alaska Department of Juvenile Justice Youth Diversion Memorandum of Understanding; and, participation with State Rule 11 criminal sentencing inclusion.
- 2. Partners:** Continued partnership with AVCP Departments, University of Alaska Fairbanks, and other Native organizations. Increased collaboration with State agencies (such as the Alaska State Troopers, Alaska Court System, and RurAL Cap) to rebuild confidence, trust, and partnerships.
- 3. Training:** Expand current training model to include advanced court topics, alternative court models and sentencing, and draft proposal to include more participants per Tribe so training can be shared among more members of the Tribal Court staff and judges, as well as other professionals who work closely with Tribal Court. Consider expanding training model to outside AVCP region.
- 4: Community Focused Development:** Continued training to Court personnel and Judges. Also, expand services provided by the TJD that will bridge the current gap in services; specifically, provide ICWA representation assistance for those Tribes that are not currently compacted with AVCP. The TJD provides service to all 56 Tribes, regardless of compact status, and currently there is a gap in services for those Tribes that do not compact with AVCP for ICWA.

Identified Challenges and Solutions from 2018 Public Safety Summit

Challenges	Solutions
Alcohol and Drugs	Healthy Families
No Law Enforcement Presence	Public Safety Starts at Home
Lack of Support for Law Enforcement	Support for Current Law Enforcement
Deficient Tribal Courts	Tribal Courts
Lack of Funding	Increased Collaboration
Law Enforcement is Provided Throughout the Nation	Training
Decreased National Guard Presence	State Involvement
	Increased Community Involvement
	Further Development of Community Programs

AVCP Request

Tribal Justice Department Request

- **FEDERAL – Broadband internet development.**
- **FEDERAL – policy and statutory language revisions to allow for the exercise of special criminal jurisdiction over any person for Alaska Tribes, which is not tied to “Indian country”, but based upon criteria that allows eligibility for Alaska Tribes.**
- **FEDERAL – provide direct, non-competitive funding to create/develop Tribal Justice/Public Safety infrastructure, including capital expenditures; or provide non-competitive formula funding with guaranteed base funding amount to create develop Tribal Justice/Public Safety infrastructure.**
- **FEDERAL – provide funding for ICWA Attorney and Staff member to assist with expansion.**
- **FEDERAL – provide Training and Technical Assistance resources for Tribal Court and ICWA that are Alaska-based.**
- **ADMINISTRATION – allow for expansion of Tribal Justice department role/staff to include support for ICWA representation for Tribes not currently compacted with ICWA.**

Solutions Achieved

Fulfilling This Request Achieves These Public Safety Summit Solutions

- **Tribal Courts:** Building sustainable, efficient, and well-functioning Tribal Courts that instill confidence within the community and Tribal Members of the Tribal Court
- **Support for Current Law Enforcement:** Provide a resource for wrap-around public safety enforcement from first-responders to Judges.
- **Training:** Needs assessments of our Member Tribal Courts and targeted training will increase effectiveness, confidence, and support of Tribal Courts.
- **Further Develop of Community Programs:** Assist with ICWA representation for Tribal Members and Tribes



AVCP Public Safety Solutions From Our Region, For Our Region

Service Division

Village Public Safety Officer (VPSO) Program

Program Purpose: To train and employ individuals residing in the villages in the AVCP region as first responders to public safety emergencies such as: search and rescue, fire protection, emergency medical assistance, crime prevention and basic law enforcement. They also make monthly contact with Probation and Parolee's. The presence of these officers has a significant impact on improving the quality of life in the participating villages. As a result, the Village Public Safety Officer (VPSO) Program is generally the first responder to many calls for service from community members. The funding for this program comes from a contract with the State of Alaska. AVCP is included in Detachment C which is the size of the State of Texas.

Contact: 907-543-7390, vpsos@avcp.org

Service Delivery Model

Village/Tribe	Sub-Regional Tribe	Based in Bethel	Beyond the Region
Scammon Bay - VPSO	Emmonak – VPSO	VPSO Headquarters	VPSO Coordinators meetings
Mekoryuk - VPSO		Roving VPSO	
Goodnews Bay - VPSO		AVCP Convention	
Kwethluk - VPSO			

Service Delivery Data

Conduct Local Law Enforcement, Coordinate Search & Rescue; Maintain Fire Department, Provide Basic First Aid and Assist the local Health Aides when needed.		Administer the VPSO Program through State of Alaska Grant Funds, in which are funneled through Department of Public Safety.	Funding comes from the State Legislatures through Department of Public Safety/Statewide VPSO Program, then through the 9 Corporations and 1 Borough Statewide, and then finally disbursed to local level in providing VPSOs.
Provide Probation and Parole Monitoring.		Data sent to Department of Probation and Parole.	
VPSO Daily Work Hours and Overtime Hours taken.		Work hours are monitored on bi-weekly basis, and Overtime hours are monitored.	
VPSO Work Uniforms.		VPSO Administration is the funnel for any uniform changes the VPSOs want, which are then sent to DPS for delivery of item(s).	DPS/Statewide VPSO Program Office Supply Headquarters.

AVCP Division Impact Statement

How the VPSO Program impacts Public Safety in our Region

The VPSO Program provides basic Public Safety Service in communities. Basic roles are Law Enforcement, Search and Rescue, Basic First Aid, Maintain Fire Department, Probation and Parole Monitoring, and the D.A.R.E. Program at local schools. VPSOs are more relied on in communities that have VPSOs. Communities prefer a local VPSO because of the knowledge, service they provide, and the trust they have with them. VPSOs are communication links to other agencies outside of the community.

AVCP Public Safety Strategy for our Region

How the VPSO Program Can Support Public Safety in our Region

1. Holistic Approach: Developing a Western Alaska Emergency Response Center (WEARC) based in Bethel would improve our regional public safety service by having equipment available when needed in one of the communities, such as fire suppressant systems, search and rescue supplies, materials for immediate response to fuel disasters. The WEARC could be utilized as a training facility for any law enforcement. The VPSO Program will work with other programs at AVCP to provide the best law enforcement service and support for existing officers.

AVCP Public Safety Solutions From Our Region, For Our Region

2. Partners: VPSOs work cohesively with the Alaska State Troopers within their respected regions. VPSO Administration works collaboratively with Department of Public Safety/Statewide VPSO Program and local governing bodies to provide support for the officers. VPSOs also work with local volunteer fire department and search and rescue teams. They work closely with Bethel Probation/Parolee Officers.

3. Training: Trainings will be conducted for 8 weeks with 2 weeks of fire training. There is also a 4-week training by the Alaska State Troopers. Another option is to attend a full 15-week ALET (Alaska Law Enforcement Training) in Sitka with 2 weeks of fire training and 4 weeks of Field Training. Arming VPSOs is a possibility in the future.

4: Community Focused Development: VPSOs are first responders for the AVCP region. Communities in this region have a high preference to local hire or someone that is from this region who would understand our culture. VPSOs can work with the community members and youth to provide information and education on law enforcement issues and programs.

Identified Challenges and Solutions from 2018 Public Safety Summit

Challenges	Solutions
Alcohol and Drugs	Healthy Families
No Law Enforcement Presence	Public Safety Starts at Home
Lack of Support for Law Enforcement	Support for Current Law Enforcement
Deficient Tribal Courts	Tribal Courts
Lack of Funding	Increased Collaboration
Law Enforcement is Provided Throughout the Nation	Training
Decreased National Guard Presence	State Involvement
	Increased Community Involvement
	Further Development of Community Programs

AVCP Request

VPSO Program Request

- **Broadband internet development.**
- **At least one VPSO available for each of the communities in the AVCP region.**
- **Regulatory changes to Alaska State Statutes and Regulations to allow the ability to place VPSOs where they are needed.**
- **Renovation of existing public safety facilities.**
- **Public safety facilities in communities that do not have one. This could be a multi-purpose public safety building that can house a Tribal court system, meeting place, jail cells to detain prisoner(s) and a fire department.**
- **Transportation equipment such as four-wheelers, side by sides, snow machines and a boat and motor**
- **Ability for officers to provide temporary public safety service within their unit.**
- **Public Safety housing for a VPSO, VPO or TPO law enforcement to have a place to live. Housing could be utilized for law enforcement TDY in the community or possibly in duplex form for multi-purpose use such as a safe house for victims of crimes.**
- **Culturally-relevant counseling available that can give support for the traumatic or fatal situation(s) faced by officers and their families. A Chaplain is in place with the Alaska State Troopers.**
- **Support structure for the officer and immediate family of the VPSOs who are attending extended training. As part of our traditional culture, when we establish a family, we are entitled to care for the daily needs of our family.**

Solutions Achieved

Fulfilling This Request Achieves These Public Safety Summit Solutions

- **Healthy Families:** Providing law enforcement allows families to feel safe and remain healthy.
- **Support for Existing Law Enforcement:** Placing a Support Structure locally to help with immediate families of local law enforcement officers, while they provide the service in the community they serve.
- **Tribal Courts:** Cross Deputization / Civil Diversion to be implemented within each of our regional communities. This would greatly benefit the all individual(s) related to each incident.
- **Increased Community Involvement:** Drug and Alcohol Resistance Education at local schools to help children understand the consequences of alcohol and drugs.
- **Further Development of Community Programs:** A multi-purpose building could accommodate other programs.



AVCP Public Safety Solutions From Our Region, For Our Region

Service Division

Indian Child Welfare Act (ICWA)

Program Purpose:

To act in the best interest of Alaska Native children by meeting the requirements of the ICWA with a focus on protecting the tribes' rights under ICWA by keeping children safe, keeping families as intact as possible and preserving children's connections to their tribes and Alaska Native culture. The AVCP ICWA Program works with compacted tribes to protect their interests in state court child protection cases.

Contact: 907-543-8690, ICWA2@avcp.org

Service Delivery Model

Village	Sub-Regional	Based in Bethel	Beyond the Region
40	1 (Emmonak)	Main office	Anchorage ICWA Advocates based in OCS Office
38 to 40 villages compacted	4 (in progress - Aniak, St.Mary's, Hooper Bay, Toksook Bay)		

Service Delivery Data

Children in custody:	Extended Family Placements:	Tribal Intervention:	Reunification:
2014: 273	2014: 77 (46%)	2014: 84 (31%)	2014: 51 (60%)
2015: 283	2015: 81 (51%)	2015: 131 (46%)	2015: 68 (63%)
2016: 275	2016: 102 (59%)	2016: 177 (64%)	2016: 39 (52%)
2017: 298	2017: 107 (66%)	2017: 198 (66%)	2017: 76 (66%)
2018: 281	2018: 111 (69%)	2018: 206 (73%)	2018: 66 (78%)

AVCP Division Impact Statement

How ICWA impacts Public Safety in our Region

- Accompany OCS and public safety on welfare checks and assists by finding safe relative homes when children need to be removed through compacted service delivery.
- Staff are mandatory reporters and must report suspected child abuse and neglect to public safety and the Office of Children's Services (OCS).
- Work in partnership with state and federal agencies to change service delivery to improve child welfare outcomes.
- Laws that support our work include: ICWA, Family First Safety and Prevention Act, IV-E and IV-B federal funding legislation, OSG Social Services, Adoption and Safe Families Act of 2018, VAWA, Social Security Act.

AVCP Public Safety Strategy for our Region

How ICWA Can Support Public Safety in our Region

- 1. Holistic Approach:** Guide talking sessions with communities on child safety and parenting that empowers our communities through the use of gentle action theory/strength and is evidence based, that celebrates our history and culture.
- 2. Partners:** State of Alaska (OCS, BH), Casey Family Foundation, AVCP Divisions, Tribal Caucus, Court Improvement Program, GAL/CASA, TIWAHE tribes, Children's Bureau, Administration for Children and Families, SAMHSA,
- 3. Training:** WRO OCS/AVCP ICWA annual gathering, ICWA II, KWYA, SKILS, Strengthening Families, Evidence-Based, Leadership Convening through Casey Family Programs, UAA-Child Welfare Academy,
- 4. Community Focused Development:** Ensure integration of strategic planning sessions with all ICWA staff into 5 year Tribal 2020-2024 Child and Family Services Plan. ICWA can accompany OCS on IA investigations, case plan reviews for progress, promote culturally relevant resource guide utilization so that services are culturally focused through referral and on-site service delivery for compacted tribes. Work closely with TANF to provide Structured Decision Model assessment and intervention services.

AVCP Public Safety Solutions From Our Region, For Our Region

Identified Challenges and Solutions from 2018 Public Safety Summit

Challenges	Solutions
Alcohol and Drugs	Healthy Families
No Law Enforcement Presence	Public Safety Starts at Home
Lack of Support for Law Enforcement	Support for Current Law Enforcement
Deficient Tribal Courts	Tribal Courts
Lack of Funding	Increased Collaboration
Law Enforcement is Provided Throughout the Nation	Training
Decreased National Guard Presence	State Involvement
	Increased Community Involvement
	Further Development of Community Programs

AVCP Request

ICWA Request

- **Broadband internet development.**
- **Assessment and creation of a strengthened staffing plan for the ICWA Department.**
- **Develop and implement a Diligent Relative Search and Foster Care Recruitment and Retention Program in the ICWA Department.**
- **Increase child welfare funding for the ICWA Department to provide more training for communities in responsible parenting and keeping children safe.**
- **Identify best practices in prevention work being done by the ICWA worker in the compacted tribal villages and share those plans with peers.**
- **Provide VPSO services to conduct child welfare checks when families are in crisis (substance abuse, domestic violence, safety concerns) when no Alaska State Trooper or OSC staff are available in the community.**
- **More arrests against perpetrators and have a holding cell.**
- **and train “safe homes” where children and non-offending parents can run to when their safety is compromised.**
- **Develop Tribal Courts to address VAWA issues with the development of codes.**
- **Training and Technical Assistance to Tribes on Judge, Clerk, Children’s Codes development through Tribal Justice.**
- **Conduct annual “Public Safety Summits” that involve child welfare and tribal court personnel.**
- **Increase OCS staff in villages where there are high OCS case loads instead of having itinerant staff in Bethel or Anchorage.**
- **Develop and build supervisory capacity in 5-7 sub regions of the 56 Tribes serviced by AVCP.**
- **Training of all AVCP’s sub regional staff for the purpose of strengthening coordination and collaboration of resources to families.**
- **Assistance to Tribes in understanding roles and resources for Tribal families in their own community.**
- **Support to foster families to improve environment and safety issues which assist in licensing their home.**

Solutions Achieved

Fulfilling This Request Achieves These Public Safety Summit Solutions

- **Healthy Families:** We will see a decrease in repeat maltreatment cases with families who’ve been involved with OCS for a couple of generations. We will see lower ACES (Adverse Childhood Experiences) in future generations.
- **Public Safety Starts at Home:** We will see an increase in utilization of protective factors and resilience of our parents in the future. We will have evidence-based solutions that work focused on cultural values to increase our capacity to intervene in families before they are arrested or involved with OCS.
- **Support Current Law Enforcement:** Streamline and build partnerships with law enforcement and OCS child welfare cases where children are kept safe. Having VPSO and OCS presence allows families to see this region will not tolerate child abuse or neglect.
- **Tribal Courts:** We will see an increase of tribal court cases that embrace child safety. VAWA compliance will decrease the number of domestic violence cases.
- **Training:** We will see more children completing school and attending training and return to their communities as stronger leaders.



AVCP Public Safety Solutions From Our Region, For Our Region

Service Division

Healthy Families

Program Purpose: With guidance and support from our Elders, the program provides culturally appropriate services to the AVCP region, to promote and support 'whole health' through the sharing, teaching and practice of our traditional values.

Contact: 907-543-8680, HealthyFamilies@avcp.org

Service Delivery Model

Village	Sub-Regional	Based in Bethel	Beyond the Region
Healthy Families Workshops	Send Notices for Healthy Family Workshops to the Sub-Region	Healthy Families Main Office/Staff Healthy Families Workshops Workshops w/ local plant knowledge	Healthy Families Workshops in Anchorage
	Distribute Information on Healthy Families activities	Qasgiq (Elder) Sessions	Social Media Outreach to raise awareness of Healthy Families programs and activities
		Cultural/Healthy activities for workshop participants & community	

Service Delivery Data

		(2013-2015) 27 Workshops, 695 individuals from the AVCP service area attended	
2016-17 Annual Report: 1 Village Workshop		2016-17 Annual Report: 13 Workshops, 114 Participants, 11 Qasgiq Sessions, 21 Elders plus HF Staff.	
2017-18 Annual Report: 4 Village Workshops		2017-18 Annual Report: 13 Workshops, 106 Participants, 11 Qasgiq Sessions, 12 Elders plus HF Staff.	
11/2018-5/2019: 4 Village Workshops, 129 Participants		11/2018-5/2019: 6 Workshops, 61 Participants, 5 Qasgiq, 12 Elders plus HF Staff	

AVCP Division Impact Statement

How Healthy Families (HF) impacts Public Safety in our Region

Prevention, Intervention, Education, Outreach

- **3.5-day Healthy Families Workshops in Bethel:** Closed group with participants who are self-referred and referred by agencies such as Office of Children's Services (OCS), Tribal Courts, State of Alaska Bethel Court (criminal offenders), Public Defender Agency and AVCP Departments.
- **2.5-day Healthy Families Workshops in Villages:** Open community workshop upon invitation from Tribe.
- **Qasgiq Sessions:** Staff engage with elders and receive ongoing cultural guidance. Space is created for elders to talk, network, and provide support for each other to gain confidence to become HF elder facilitators for the region.
- **Partnerships** with Tundra Women's Coalition (TWC), University of Alaska Fairbanks – Kuskokwim Campus (UAF-KUC), Orutsarmiut Native Council (ONC) to host events such as culture week, culture camp, and cultural activities to promote healthy identity, behavior and coping mechanism for our youth, thus reducing factors that contribute to people committing crimes or hurting others.

AVCP Public Safety Strategy for our Region

How Healthy Families Can Support Public Safety in our Region?

1. **Holistic Approach:** The program creates a culturally appropriate time and place for people to come together to talk about public safety in the form of healing, wellness, prevention, intervention, and postvention. The Healthy Families program utilizes a grassroots model for culturally-based therapeutic services. The department provides Healthy Families workshops for the Tribes and is a resource for first responders/law enforcement.

AVCP Public Safety Solutions From Our Region, For Our Region

2. **Partners:** AVCP Tribes, UAF-KUC, State of Alaska Behavioral Health and OCS, AVCP Departments, TWC.
3. **Training:** HF Workshops can provide emotional support for law enforcement officers and their families. Through sub-regionalization and community-based development, enhanced services can provide more immediate and effective response to first responders needs.
4. **Community Focused Development:** Expanding services and program presence to sub-regions and communities will engage leaders at all levels in developing effective models that promote health and wellness in all aspects of life (i.e. home, work, school, economy, etc.).

Identified Challenges and Solutions from 2018 Public Safety Summit

Challenges	Solutions
Alcohol and Drugs	Healthy Families
No Law Enforcement Presence	Public Safety Starts at Home
Lack of Support for Law Enforcement	Support for Current Law Enforcement
Deficient Tribal Courts	Tribal Courts
Lack of Funding	Increased Collaboration
Law Enforcement is Provided Throughout the Nation	Training
Decreased National Guard Presence	State Involvement
	Increased Community Involvement
	Further Development of Community Programs

AVCP Request

Healthy Families Request

- **Broadband internet development.**
- **Multi-purpose buildings in subregions and villages – wellness centers.**
- **Ability to provide therapeutic services aligned with cultural practices.**
- **Permanent funding streams for tribal wellness and safety programs (i.e. TIWAHE initiative).**
- **Regulatory changes for TANF to update the goals and eligibility requirements.**
- **Medicaid billing - 1115 Waiver: Funding/Partnerships/Training.**
- **Family First Prevention Services Act: Funding/Partnerships/Training.**
- **Evidence Based Program Development: Funding/Partnerships/Training.**
- **Curriculum development for adult and youth programs: Funding/Partnerships/Training.**
- **Cultural Activities: Funding/Opportunities/Partnerships/Training.**
- **Youth Cultural Program Development: Funding/Opportunities/Partnerships/Training.**

Solutions Achieved

Fulfilling This Request Achieves These Public Safety Summit Solutions

- **Healthy Families:** Increased availability of culturally based prevention and intervention services in the community, sub-region, and regional level will contribute to Healthy Families in our communities and work to eliminate disproportionate rates of child abuse, suicide, and substance abuse.
- **Public Safety Starts at Home:** Increased availability of culturally based prevention and intervention services in the community, sub-region, and regional level will contribute to safe and healthy homes and communities and work to eliminate disproportionate rates of child abuse, suicide, and substance abuse.
- **Support for Current Law Enforcement:** VPSO/VPO/TPOs and their families will receive holistic support from Healthy Families Workshops and from enhanced services that fit their specific needs as first responders.
- **Tribal Courts:** Tribal courts will have access to more culturally based tools and resources for alternatives to sentencing and working with offenders to keep individuals out of jails, and institutions.
- **State involvement:** Partnership with the SOA Behavioral Health and OCS will help to enhance and sustain culturally based prevention and intervention services for families and individuals and reduce rates of Native children in custody, and in other institutions.
- **Increased Community Involvement:** Culturally based services will naturally include community members under the traditional value of *working together*. Community members with specific skill sets and knowledge will be utilized and will naturally gravitate toward cultural activities because they are inclusive, and strength-based.
- **Further Development of Community Programs:** A focus on culturally based services gives communities the space to engage in opportunities for developing effective programs or services that prevent or address public safety issues.



AVCP Public Safety Solutions From Our Region, For Our Region

Service Division

Tribal Services Department

Program Purpose:

Tribal Services assists Aid to Tribal Government (ATG) Compacting tribes by providing technical assistance to develop their capacity to function as a tribal government. Tribal Services coordinates technical assistance to conduct elections; review and assist with amending constitutions and by-laws and ordinances. Tribal Services monitors ATG budgets, provides allocations and provides training to help council members and staff successfully perform their respective duties. Services include issuing enrollment cards, access to email, computer assistance and maintenance.

Contact: Tribal Services 907-543-7380, tsd@avcp.org

Service Delivery Model

Village	Sub-Regional	Based in Bethel	Beyond the Region
Allocation to Compacted Tribes for administration expenses.	Tribal ID Services	Tribal Services Department Headquarters	Tribal ID Services for College Students and tribal members not residing in the region.
On-site training and technical assistance	Attend meetings	Training provided to Compacted ATG Tribes	Interpret and assist with registration at Alaska Federation of Natives annual convention.
Tribal ID Services	Attend Unit Meetings Tribal Gatherings Job/College Fair Annual Convention	Tribal ID Services including enrollment assistance	
Technical Assistance for policies, ordinances, constitutions, financial and administrative management		Update data bases annually (council/office personnel/enrollment)	
Tribal Government Assessment and Small Community Emergency Response Plans (SCERP)		Collect resolution / letters from 56 tribes	

Service Delivery Data

20 ATG Compacted	15 Tribal Administrators 13 Bookkeepers/ Assistants are paid through AVCP	32/month (average) 384/year Tribal IDs printed in village/Bethel Higher #'s when the local DMV is closed	Provide and gather information from 56 tribes via phone, email, social media and fax to serve as the voice of the region
18/20 assessments completed annually 18/20 technical support assist w/ financials 500+ tribal IDs issued 8 MOA presentation	Attend Unit Meetings Tribal Gatherings Job/College Fair Annual Convention	Occupational Endorsement Courses and training	

AVCP Division Impact Statement

How Tribal Services impacts Public Safety in our Region

The Tribal Services department provides technical assistance and training to support tribal operations. Tribal Services assesses and recommends development of Small Community Emergency Response Plans (SCERP). The annual Tribal Government assessment is a tool that measures the areas needing improvement for the safety of the employees and their tribal members. Tribal Services assists Public Safety by providing technical assistance, training and information to Tribes to further develop capacity and documents. ATG Compacted Tribes are eligible to budget allocated funding to assist with development of Public Safety initiatives.

AVCP Public Safety Solutions From Our Region, For Our Region

AVCP Public Safety Strategy for our Region

How Tribal Services Can Support Public Safety in our Region

- 1. Holistic Approach:** Host training workshops for Tribes to empower their effectiveness to search for grants, programs and best practices to identify the method that works best for their tribe to provide public safety. Empower and strengthen the tribe's constitution, ordinances and policies. Work with other departments to host training and provide information to Tribes.
- 2. Partners:** Tribal administration can work in agreement with City and/or Corporations in working towards unity and work towards strengthening public safety. Organizations can work collaboratively and maintain public safety within their community.
- 3. Training:** Provide training and technical assistance and educate tribal staff and council to increase knowledge and capacity. Works with other departments to assist with training.
- 4. Community Focused Development:** Work with other Tribes within units and share information in creating strong region. Provide information to promote community development.

Identified Challenges and Solutions from 2018 Public Safety Summit

Challenges	Solutions
Alcohol and Drugs	Healthy Families
No Law Enforcement Presence	Public Safety Starts at Home
Lack of Support for Law Enforcement	Support for Current Law Enforcement
Deficient Tribal Courts	Tribal Courts
Lack of Funding	Increased Collaboration
Law Enforcement is Provided Throughout the Nation	Training
Decreased National Guard Presence	State Involvement
	Increased Community Involvement
	Further Development of Community Programs

AVCP Request

Tribal Services Department Request

- **Broadband internet development.**
- **Implement Occupational Endorsement for Tribal Administrators.**
- **Internet connectivity for Tribes to provide remote services.**
- **Equipment to allow for remote training and technical assistance.**
- **Tribal update of constitutions, personnel and financial management policies.**
- **Community plans for all tribes.**
- **Development of jurisdictional boundaries.**
- **Assist with increased community involvement and collaboration for public safety.**
- **Reach out to tribal members and encourage youth to apply for VPSO law enforcement.**
- **To provide enhanced tribal ID's that are compliant with the Real ID Act.**
- **Assist with development of physical addresses for AVCP Tribes.**

Solutions Achieved

Fulfilling This Request Achieves These Public Safety Summit Solutions

- **Increased Collaboration:** Conduct monthly meetings with the Tribes, agencies, local agencies, corporations, church leaders and school board to discuss, plan and form strategies. Staff conduct Annual Tribal Gatherings to inform tribal members.
- **Training:** Tribal Administrators, Bookkeepers and Tribal council members annually trained with MOA and financial reporting to help continue their day to day operations. Tribal Office personnel are the main point of contact when outside agencies call or visit Tribes. They are the key personnel who keep the community moving forward with programs. Understand/update and enforce their ordinances.
- **Increased Community Involvement:** Tribal Administrator and Tribal Council members invite community together for a village meeting to come up with safety solutions that best fit their needs; plan to form volunteer group when there is a crisis; identify people who can assist with emergencies.



AVCP Public Safety Solutions From Our Region, For Our Region

Service Division

Communications Department

Program Purpose:

To promote transparency and information outreach to member Tribes, while interfacing with media agencies to ensure accuracy and responsible representation.

Contact: 907-543-7317, communications@avcp.org

Service Delivery Model

Village	Sub-Regional	Based in Bethel	Beyond the Region
Quarterly Newsletters	Quarterly Newsletters	Quarterly Newsletters	Quarterly Newsletters
Social Media Outreach	Social Media Outreach	Social Media Outreach	Social Media Outreach
Website	Website	Website	Website
Interface with outside media outlets and ensure accuracy of information in media representing the AVCP region	Interface with outside media outlets and ensure accuracy of information in media representing the AVCP region	Interface with outside media outlets and ensure accuracy of information in media representing the AVCP region	Interface with outside media outlets and ensure accuracy of information in media representing the AVCP region
Annual Report	Annual Report	Annual Report	Annual Report
Online Event Registration and Mobile Applications			
Public Service Announcements	Public Service Announcements	Public Service Announcements	
Online Surveys	Online Surveys	Online Surveys	
Outreach Events	Outreach Events	Outreach Events	

Service Delivery Data

YouTube Channels	Facebook (average reach = 4,157 over last 6 months)		
1 website <avcp.org>	Twitter		
4 Quarterly Newsletter per year	Instagram		
8 Employee Newsletters per year			

AVCP Division Impact Statement

How Communications impacts Public Safety in our Region

Increase transparency of AVCP Programs
 Assist in VPSO recruitment
 Increase information outreach of state and federal events that effect public safety programs
 Facilitate and ensure accurate representation of public safety information in outside media
 Publish and disseminate public safety reports and other information outreach

AVCP Public Safety Solutions From Our Region, For Our Region

AVCP Public Safety Strategy for our Region

How Communications Can Support Public Safety in our Region

Increases transparency of VPSO Program
 Assists in VPSO recruitment
 Increase information outreach of state and federal events that affect public safety programs

Identified Challenges and Solutions from 2018 Public Safety Summit

Challenges	Solutions
Alcohol and Drugs	Healthy Families
No Law Enforcement Presence	Public Safety Starts at Home
Lack of Support for Law Enforcement	Support for Current Law Enforcement
Deficient Tribal Courts	Tribal Courts
Lack of Funding	Increased Collaboration
Law Enforcement is Provided Throughout the Nation	Training
Decreased National Guard Presence	State Involvement
	Increased Community Involvement
	Further Development of Community Programs

AVCP Request

Communications Request

- **Broadband internet development.**
- **Increase the degree and quality of reliable telecommunications capacity to better connect communities.**

Solutions Achieved

Fulfilling This Request Achieves These Public Safety Summit Solutions

The request achieves an increase in all of the 9 solution areas listed above. Communication and transportation (the defining characteristics of globalization) are at the foundation of our unique challenges.



AVCP Public Safety Solutions From Our Region, For Our Region

Service Division
Transportation Department
<p>Program Purpose:</p> <p>The Transportation Department's purpose is to promote the economic development of villages through planning, designing, constructing and maintaining priority transportation projects in the AVCP region. AVCP Transportation Consortium pools tribal shares to leverage those funds with much larger funding opportunities, providing AVCP Consortia villages and tribes with affordable, larger projects. There are currently 14 tribes in our consortium.</p> <p>The AVCP Region is isolated and only accessible by air or surface; there are no roads connecting our 48 villages.</p> <p>Contact: 907-543-7460, Transportation@avcp.org</p>

Service Delivery Model			
Village	Sub-Regional	Based in Bethel	Beyond the Region
Planning – LRTPs	Planning – YK Corridor	Transportation HQ	Advocate funding needs
Design Projects	Design – Oscarville Access		Participation in TTPCC
Construct Projects	Winter Trail Improvements		Educate about our region
Maintain Inventory	Safety Project: AWOS unit		
Safety Projects			
Service Delivery Data			
13 designs done	35 construction hires		YK Corridor Public Meetings
4 designs in process	2 homemade graders		
8 construction done			
2 construction ongoing			
2 construction planned			

AVCP Division Impact Statement
How Transportation impacts Public Safety in our Region
<p>Improved existing inventory (roads/board roads)</p> <ul style="list-style-type: none"> • Road/Board road upgrades/improvements • Provide access to previously inaccessible locations/Connectivity • Access to community health for community members <p>Safety Program (activities that people in the lower 48 consider recreation, we use for day to day transportation and commuting)</p> <ul style="list-style-type: none"> • ATV Safety Course: providing helmets and safe use instruction in the villages • Personal Locator Beacon rentals: for tribal members traveling between villages and for subsistence • Winter Trail Improvements: improving about 1100 miles of winter trails to reduce injury and death while traveling between villages • Contribute to Airline safety: purchase 1 AWOS (\$275,000) unit (Bethel is the 3rd busiest airport in Alaska for passengers and the 3rd busiest for freight)

AVCP Public Safety Strategy for our Region
How Transportation Can Support Public Safety in our Region
<p>1. Holistic Approach: Host Transportation Symposium with half day dedicated to Safety, knowing that our regional voices together achieve the best regional solutions that work for our communities.</p> <p>2. Partners: Through our Safety Plan we can bring all stakeholders to the table forming a committee when we update our current Safety Plan.</p>

AVCP Public Safety Solutions From Our Region, For Our Region

3. Training: ATV Safety Course.

4: Community Focused Development:

- Personal Locator Beacon rentals
- Winter Trail Marking Project to reduce accidental injury in our communities
- Building/improving essential transportation infrastructure.

Identified Challenges and Solutions from 2018 Public Safety Summit

Challenges	Solutions
Alcohol and Drugs	Healthy Families
No Law Enforcement Presence	Public Safety Starts at Home
Lack of Support for Law Enforcement	Support for Current Law Enforcement
Deficient Tribal Courts	Tribal Courts
Lack of Funding	Increased Collaboration
Law Enforcement is Provided Throughout the Nation	Training
Decreased National Guard Presence	State Involvement
	Increased Community Involvement
	Further Development of Community Programs

AVCP Request

Transportation Request

- **Amend language in 25 CFR Part 170.443(b) to grandfather existing proposed roads in the NTTFI for perpetuity.**
- **Eliminate clause in 25 CFR Part 170.447 as this clause contradicts the purpose of the Tribal Transportation Program as stated in 25 CFR Part 170 II. Background and impedes a Tribe's progress to connect villages.**
- **Amend 23 USC 148 to add all previously allowed safety projects: education, emergency medical services, traffic enforcement, and engineering because Tribal safety needs are unique, not adequately addressed, and differ from the State DOT's needs (which is what this law change applied to).**
- **Reinstate and fully fund the High Priority Projects in the Tribal Transportation Program.**
- **Start including Ice Roads and rivers (their summer counterpart) in the inventory as routes to generate funding.**

Solutions Achieved

Fulfilling This Request Achieves These Public Safety Summit Solutions

- The requests sustain and potentially increases allocations which results in:
- **Increased Community Involvement:** Improvement to local infrastructure.
 - **Support for Current Law Enforcement:** More surface accesses.
 - **Increase Collaboration:** Greater connectivity between tribal villages.
 - **State Involvement:** Broader safety project options.



AVCP Public Safety Solutions From Our Region, For Our Region

Service Division

Yuut Elitnaurviat - Training

Program Purpose: Yuut Elitnaurviat coordinates a 15 day Tribal Police Officer/Village Police Officer Academy that is approved by the Alaska Police Standards Council and the Alaska Commission on Postsecondary Education. This is currently the only rural law enforcement officer training in the state.

Contact: 907-543-0999, training@yuut.org

Service Delivery Model

Village	Sub-Regional	Based in Bethel	Beyond the Region
		Two VPO/TPO Academies per year	

Service Delivery Data

Academy # 22: Spring 2010 - 18 graduates	Academy # 27: Fall 2013 - 25 graduates	Academy # 32: Spring 2017 - 15 graduates	
Academy # 23: Fall 2011 - 27 graduates	Academy # 28: Spring 2014 - 38 graduates	Academy # 33: Spring 2018 - 15 graduates	
Academy # 24: Spring 2012 - 40 graduates	Academy # 29: Fall 2014 - 25 graduates	Academy # 34: Fall 2018 - 12 graduates	
Academy # 25: Fall 2012 - 20 graduates	Academy # 30: Spring 2015 - 34 graduates	Academy # 35: Spring 2019 - Starting 5/31/19	
Academy # 26: Spring 2013 - 32 graduates	Academy # 31: Spring 2016 - 34 graduates		

AVCP Division Impact Statement

How the VPO/TPO Academy impacts Public Safety in our Region

The Academy covers the following topics in support of regional Public Safety: fire training, fire prevention, Medic 1st Aid and CPR/AED, patrol procedures, rural DUI procedures, Miranda rights, criminal codes, juvenile procedures, emergency jail guard hire, interview techniques, use of force, defensive tactics, expandable baton, report writing, evidence procedures, criminal complaints, crime scene investigation, mental subjects Title 47 protective custody, sexual assault, and domestic violence.

AVCP Public Safety Strategy for our Region

How the VPO/TPO Academy Can Support Public Safety in our Region

- 1. Holistic Approach:** Officers from all over the region and Alaska coming together to train, network, and develop into professional VPO and TPOs.
- 2. Partners:** Tribes, village administrations, AVCP, Yuut Elitnaurviat, Alaska Department of Public Safety, Alaska Police Standards Council.
- 3. Training:** Currently the only rural law enforcement officer training in Alaska.
- 4. Community Focused Development:** Train village based law enforcement officers.

AVCP Public Safety Solutions From Our Region, For Our Region

Identified Challenges and Solutions from 2018 Public Safety Summit

Challenges	Solutions
Alcohol and Drugs	Healthy Families
No Law Enforcement Presence	Public Safety Starts at Home
Lack of Support for Law Enforcement	Support for Current Law Enforcement
Deficient Tribal Courts	Tribal Courts
Lack of Funding	Increased Collaboration
Law Enforcement is Provided Throughout the Nation	Training
Decreased National Guard Presence	State Involvement
	Increased Community Involvement
	Further Development of Community Programs

AVCP Request

Yuut VPO/TPO Training Request

- **Broadband internet development.**
- **Dedicated Public Safety Training Fund that supports qualified candidates from any village in the State.**
- **Mandated training support from the Alaska State Troopers.**

Solutions Achieved

Fulfilling This Request Achieves These Public Safety Summit Solutions

Training:

- Once this training began to be housed in the YK Delta Region the graduation rate jumped from 60% to 95%+ as opposed to when it was delivered in Sitka.
- Having this program based in rural Alaska ensures participants get realistic training pertinent to what they will experience in home communities.
- Yuut Trainers are all very experienced with Rural Alaskan Law enforcement and most are Alaska Natives who live in Rural Communities. They have demonstrated the best rapport with students and understand the roles they will play once they return home
- The Yuut program has been customized to focus on areas where VPOs need the most training and support. It also includes modules like village fire prevention/fighting. Our VPO/TPOs are all too often the first responders for all manner of crisis.

CONGRESS SHOULD ENACT LEGISLATION RECOGNIZING THE JURISDICTION OF ALASKA NATIVE TRIBES TO PROSECUTE DOMESTIC VIOLENCE AND RELATED CRIMES IN ALASKA NATIVE VILLAGES

TRIBAL JURISDICTION IS DESPERATELY NEEDED IN VILLAGE ALASKA

- Alaska domestic violence rates are ten times the national average. Sexual assaults against Alaska Native women are 12 times the national average. Many offenders are non-Native.
- Alaska Native women are over-represented *by 250 percent* among domestic violence victims: Alaska Natives comprise just 19 percent of the state population yet are *47 percent* of reported rape victims. Every 18 hours an Alaska Native woman is sexually assaulted.
- One out of every 4 Alaska Native youth suffers post-traumatic stress (PTSD) due to childhood exposure to violence—the same rate as Afghanistan War veterans.
- State-based law enforcement is virtually nonexistent in most Alaska Native villages. State troopers are only present in hub cities. VPSOs are only present in 40 out of 229 villages.
- The suicide rate in village Alaska is 6 times the national rate, alcohol-related mortality rate is 3.5 times the national rate, and 95% of rural crimes are alcohol related.
- Tribal jurisdiction in village Alaska was eliminated almost entirely by the 1971 Alaska Native Claims Settlement Act. Most crimes do not occur on the few remaining lands that constitute “Indian country” under federal law (allotments, townsite lots, trust lands).

FEDERAL LEGISLATION IS NECESSARY TO RESTORE TRIBAL JURISDICTION IN VILLAGE ALASKA.

- Tribal governments must have criminal and civil jurisdiction over all persons in their communities, regardless of land ownership. This will permit Alaska Tribes to enforce the rule of law and provide for civil society according to tribal customs, traditions and laws.
- To be effective and avoid tragic loopholes, tribal criminal and civil jurisdiction must apply to all persons, Native and non-Native alike.
- Tribal jurisdiction must extend to all crimes addressed in H.R. 1585 [the VAWA bill] (including domestic and dating violence, sex trafficking, sexual violence, stalking, obstruction of justice, and assault of law enforcement and corrections officers).
- Tribal jurisdiction must also extend to enforcement of alcohol and drug related crimes, and laws protecting against child and elder abuse.
- Tribal jurisdiction over all persons is most compelling in the over 100 villages where the Alaska Native population exceeds 75%.
- Tribal jurisdiction will not displace state and federal jurisdiction over any state and federal crimes committed in village Alaska.
- Tribal jurisdiction in village Alaska continues the Nation’s commitment to maximizing tribal self-determination and self-governance.



AVCP TRIBAL SAFETY AND WELLNESS PROPOSAL APPENDIX

1. Alaska Law Review, <i>Banishment of Non-Natives by Alaska Tribes</i>	1
2. US News & World Report, <i>Jail Deaths Highlight Ongoing Rural Alaska Safety Issues</i> (May 2019).....	23
3. KYUK, <i>Domestic Assault in Kalskag Results in Village Lockdown</i> (May 2019)	27
4. ProPublica, <i>Lawless</i> (May 2019).....	29
5. ProPublica, <i>How We Tallied Alaska Villages Without Local Law Enforcement</i> (May 2019).....	54
6. ProPublica, <i>Why We’re Investigating Sexual Violence in Alaska</i> (May 2019).....	59
7. KYUK, <i>Search and Rescue Recovers Unidentified Body From Kuskokwim River</i> (May 2019).....	63
8. KYUK, <i>Public Safety Persists As Top Issue For Y-K Delta</i> (October 2018).....	65
9. KYUK, <i>In Marshall, Residents Protect Each Other In A Village Without Police</i> (March 2018).....	69
10. KYUK, <i>Banished Man Sentenced to Probation</i> (September 2016).....	73
11. KYUK, <i>BSAR Recovers Aaron Moses’ Remains</i> (January 2019).....	76
12. KYUK, <i>Emmonak Man Presumed Drowned</i> (January 2018).....	79
13. KYUK, <i>George Mute’s Body Found After Nine Months</i> (June 2016).....	81

14.	KYUK, <i>Respected Elders Drown In Yukon River Near Marshall</i> (May 2016).....	84
15.	KYUK, <i>'Stay Off The Ice' BSAR Warns As Two Dead From Four-Wheelers</i> (April 2019).....	87

BANISHMENT OF NON-NATIVES BY ALASKA NATIVE TRIBES: A RESPONSE TO ALCOHOLISM AND DRUG ADDICTION

*Halley Petersen**

ABSTRACT

Since 2015, at least a dozen tribal court banishments have been reported in Alaska, mainly involving alleged bootleggers and drug dealers in rural communities. Rural Alaska communities, which are predominantly Alaska Native, face high rates of alcoholism, drug abuse, and related crime. Faced with these drug and alcohol issues and insufficient access to law enforcement, it is not surprising that some communities have decided to banish offenders. However, banishment is not currently legal, at least when imposed upon non-Native citizens. Tribal courts lack sufficient jurisdiction over non-Natives to banish them for bootlegging or dealing drugs. Tribal governments are sovereigns with inherent powers, but they are subject to certain restrictions under the federal government. Land-based jurisdiction is insufficient to claim jurisdiction in these cases because Alaska lacks significant Indian country and the Montana factors fail to provide definitive support. Tribal jurisdiction, however, should be expanded to allow tribal courts to banish non-Natives for violations of drug and alcohol laws to improve access to justice, decrease the burden on state law enforcement, and improve welfare in rural Alaskan communities.

I. INTRODUCTION

In March 2017, the Togiak tribal council banished Ronald Oertwich, a longtime non-Native resident of Togiak, Alaska. Oertwich's banishment followed accusations that he had attempted to import alcohol into Togiak, a dry community, to resell it.¹ Oertwich initially complied with the

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1. See Lisa Demer, *Tribal Banishment of Togiak Non-Native Draws State Investigation*, ANCHORAGE DAILY NEWS (Apr. 4, 2017), <https://www.adn.com/alaska-news/rural-alaska/2017/04/03/governor-state-officials-examining-recent-banishment-of-a-togiak-man-who-is-nonnative/>; see also

banishment order and boarded a flight to nearby Dillingham.² After consulting with an attorney in Anchorage, Oertwich elected to return to Togiak and challenge the banishment order's authority.³ He was subsequently jailed for several days in a small holding cell, bound with duct tape, dragged to a waiting plane, and flown back to Dillingham.⁴ Oertwich was allowed back to collect his things but now resides with family in Oregon.⁵

Since 2015, at least a dozen tribal court banishments have been reported in Alaska, mainly involving alleged bootleggers and drug dealers⁶ in rural communities facing high rates of alcoholism, drug abuse, and related crimes.⁷ While banishment remains an uncommon practice, its potentially drastic ramifications are clear. For example, Ronald Oertwich ran a bed and breakfast in Togiak before his banishment.⁸ He was forced to leave behind his business, his possessions, and his community of thirty years.⁹

Although the effects of banishment on an individual are potentially severe, they must be considered within the broader context of rural drug and alcohol issues in Alaska. Drug and alcohol abuse are substantial

Dave Bendinger, *Troubles for Togiak After Banishing Suspected Bootlegger*, KDLG (Apr. 7, 2017), <http://kdlg.org/post/troubles-togiak-after-banishing-suspected-bootlegger#stream/0>. The tribal police officer, Leroy Nanalook, obtained a tribal search warrant for a suspicious tote addressed to Ronald Oertwich, a known bootlegger in the community. *Id.* The tote had twenty bottles of R&R and two bottles of Crown Royal – a felony offense in Alaska. *Id.* He was also previously arrested on state felony charges in 2011 after state troopers seized a package with two pounds of marijuana intended for Oertwich. Margaret Bauman, *Two Pounds of Marijuana Found in Express Mail*, BRISTOL BAY TIMES (Apr. 19, 2011), http://www.thebristolbaytimes.com/article/1116two_pounds_of_marijuana_found_in_express_mail.

2. Bendinger, *supra* note 1.

3. Demer, *supra* note 1.

4. *Id.*

5. Lisa Demer, *State Won't Interfere with Tribal Banishments Despite Civil Rights Issues, AG Says*, ANCHORAGE DAILY NEWS (Oct. 7, 2017), <https://www.adn.com/alaska-news/rural-alaska/2017/10/07/state-wont-interfere-with-tribal-banishments-despite-civil-rights-issue-ag-says/>.

6. See, e.g., Teresa Cotsirilos, *Akiak Attempts to Banish Former VPO, Alleged Bootlegger*, KYUK (Aug. 23, 2017), <https://www.alaskapublic.org/2017/08/23/akiak-attempts-to-banish-former-vpo-alleged-bootlegger/>.

7. See, e.g., Sari Horwitz, *In Rural Villages, Little Protection for Alaska Natives*, WASHINGTON POST (Aug. 2, 2014), <http://www.washingtonpost.com/sf/national/2014/08/02/in-rural-villages-%E2%80%8A-little-protection-%E2%80%8A>

[for-alaska-natives/?utm_term=.f83ed21c7b69](http://www.washingtonpost.com/sf/national/2014/08/02/in-rural-villages-%E2%80%8A-little-protection-%E2%80%8A-for-alaska-natives/?utm_term=.f83ed21c7b69) (stating that the Alaska Native city of Kake struggles with alcoholism, drug abuse, and domestic violence).

8. Demer, *supra* note 1.

9. Bendinger, *supra* note 1.

problems in rural Alaskan communities.¹⁰ Given that rural Alaskan communities are 80% Alaska Native,¹¹ drug and alcohol abuse are substantial problems for Alaska Natives as well. Indeed, Alaska sees 50% more heroin-related deaths and twice as many deaths from prescription opioids than the national average.¹² Alcohol leads to even more deaths, injuries, and arrests than heroin and prescription opioids.¹³ Alaska Natives die from alcohol abuse at a rate 7.1 times higher than U.S. whites.¹⁴

These Alaska Native communities also face some of the worst crime rates in the United States—domestic violence at ten times the national average, physical assault of women twelve times, and rape three times.¹⁵ According to the Alaska Bureau of Investigation 2014 Annual Drug Report, “the greatest contributing factor to violent crimes – including domestic violence and sexual assault – is drug and alcohol abuse.”¹⁶ In fact, 97% of crimes Alaska Natives committed, in rural and urban areas, involved alcohol or drugs.¹⁷

Elsewhere in the United States, local, state, and federal law enforcement agencies typically handle drug- and alcohol-related violations.¹⁸ However, Alaska Natives often lack adequate access to law enforcement resources.¹⁹ At least seventy-five remote Alaskan villages

10. Horwitz, *supra* note 7.

11. SCOTT GOLDSMITH, UNIV. OF ALASKA ANCHORAGE – INSTITUTE OF SOC. AND ECON. RESEARCH, UNDERSTANDING ALASKA’S REMOTE RURAL ECONOMY, UA RESEARCH SUMMARY NO. 10 (2008).

12. Lisa Demer, *Alaska’s Heroin Problem Brings Together State, Local and Federal Leaders in Search of a Solution*, ANCHORAGE DAILY NEWS (Sept. 20, 2016), <https://www.adn.com/alaska-news/rural-alaska/2016/09/20/federal-state-local-leaders-put-attention-on-alaskas-heroin-problem/>.

13. *Id.*

14. Ian Blake et al., ALASKA NATIVE MORTALITY UPDATE: 2009-2013, at 14 (Alaska Native Tribal Health Consortium, June 2016), <http://www.anthctoday.org/epicenter/publications/Mortality/Alaska-Native-Mortality-Update-2009-2013.pdf>.

15. Horwitz, *supra* note 7.

16. ALASKA STATE TROOPERS, ALASKA BUREAU OF INVESTIGATION STATEWIDE DRUG ENFORCEMENT UNIT 2014 ANNUAL DRUG REPORT 4 (2014), <https://dps.alaska.gov/getmedia/e69d3457-f666-49d9-a6cd-d4320b911a34/2014-annual-drug-report.aspx>.

17. ALASKA RURAL JUSTICE & LAW ENF’T COMM’N, INITIAL REPORT AND RECOMMENDATIONS OF THE ALASKA RURAL JUSTICE AND LAW ENFORCEMENT COMMISSION, 54 n.102 (2006), <http://www.law.state.ak.us/pdf/press/040606-ARJLEC-report.pdf>.

18. See BUREAU OF JUSTICE STATISTICS, DRUGS AND CRIME FACTS: ENFORCEMENT, <https://www.bjs.gov/content/dcf/enforce.cfm> (last visited Sept. 30, 2018) (“[F]ederal, state, and local agencies share responsibility for enforcing the Nation’s drug laws.”).

19. INDIAN LAW AND ORDER COMM’N, A ROADMAP FOR MAKING NATIVE AMERICA SAFER (2013).

have no law enforcement presence at all.²⁰ These villages, and those that depend on minimally-trained village public safety officers, rely on Alaska State Troopers for their law enforcement needs—a force with only one trooper per million acres of land.²¹ It can often take more than a day for law enforcement to arrive in a village due to limited personnel, vast distances, and unpredictable weather—if they are able to come at all.²² In a recent incident in Quinhagak, villagers contacted state troopers over the course of several months to report their suspicions about local drug dealers.²³ Troopers did not fly to the community to investigate until after a young woman died from a drug overdose.²⁴ Faced with these drug and alcohol issues and insufficient access to law enforcement, it is not surprising that some communities have turned to banishment as a response.²⁵

The State of Alaska has elected to maintain a hands-off approach to banishment thus far—somewhat understandably given the competing community and individual interests.²⁶ Alaska Attorney General Jahna Lindemuth has stated that banishment is a traditional form of tribal justice that is processed as a private civil action over which the state has no authority.²⁷ While this approach is more understandable when banished individuals are Alaska Natives living in Alaska Native communities, its justification becomes strained when banishment is enforced against non-Natives like Ronald Oertwich.²⁸

20. *Id.*

21. Horwitz, *supra* note 7.

22. *Id.*

23. Lisa Demer, *After a Young Woman's Death From a Heroin Overdose, an Alaska Village Looks Inward*, ANCHORAGE DAILY NEWS (Sept. 20, 2016), <https://www.adn.com/alaska-news/rural-alaska/2016/09/18/after-a-young-womans-heroin-death-an-alaska-village-looks-inward/>.

24. *Id.*

25. See Rachel D'Oro, *Alaska AG Outlines State Position on Tribal Banishment*, SEATTLE TIMES (Oct. 17, 2017), <https://www.seattletimes.com/nation-world/alaska-ag-outlines-state-position-on-tribal-banishment/>. Alaska Attorney General Jahna Lindemuth has said that “[b]anishment is a very extreme remedy even under tribal law - and it's very much, I think, the community feeling that there's no law enforcement in their community,” and that people may feel banishment is the only option. *Id.*

26. *Id.*

27. *Id.*

28. Demer, *supra* note 1. Oertwich was a non-Native resident of Togiak when he was banished for alcohol importation. *Id.* And at least one other tribal court has banished a non-Native for bootlegging and drug-related offenses. See Lisa Demer, *Man Banished from Alaska Indigenous Community for Bootlegging*, RADIO CANADA INT'L (Aug. 24, 2017), <http://www.rcinet.ca/eye-on-the-arctic/2017/08/24/man-banished-from-alaska-indigenous-community-for-bootlegging/> (discussing the case of Jacques Cooper, a non-Native banished from the village of Akiak until 2040 for alleged bootlegging and selling of marijuana to minors).

The question of whether tribes can banish non-Natives for alcohol and drug violations depends on tribal jurisdiction over these issues and individuals. Tribes throughout the United States are recognized as sovereign governments with specific, defined powers.²⁹ Tribes have inherent power to determine tribal membership, regulate domestic relations among members, prescribe rules of inheritance, and create tribal governments and courts.³⁰ These tribal courts have limited jurisdiction over certain individuals and types of cases.³¹ Specifically, tribes in Alaska clearly have subject matter jurisdiction over cases involving the possession of alcohol, bootlegging, drunk and disorderly conduct, driving under the influence, the sale and possession of drugs, juvenile matters, and domestic relations.³² Additionally, while tribal courts cannot exercise criminal jurisdiction over non-Natives without congressional authorization,³³ criminal cases are often handled as civil or “quasi-criminal” cases in Alaskan tribal courts, circumventing this restriction to some extent.³⁴

In other U.S. States, tribal jurisdiction is often defined by the boundaries of Indian reservations.³⁵ However, Alaska only has one reservation in Metlakatla.³⁶ Alaska Native allotments and restricted townsites may qualify as Indian country, but no concrete determination has been made.³⁷ Thus, Alaska Native tribes must look beyond land-based jurisdiction to claim broader jurisdiction over non-Natives. Additionally, even when tribal courts have subject matter jurisdiction, non-Natives generally must consent to the tribal court’s authority, either explicitly or implicitly, for the tribal court to claim jurisdiction.³⁸

29. See ALASKA LEGAL SERVS. CORP., TRIBAL JURISDICTION IN ALASKA: CHILD PROTECTION, ADOPTION, JUVENILE JUSTICE, FAMILY VIOLENCE AND COMMUNITY SAFETY (2012), <http://www.ajc.state.ak.us/acjc/alaska%20natives/trjur12.pdf>.

30. *Id.* at 18 (citing *Montana v. United States*, 450 U.S. 544, 564 (1981)).

31. *Id.*

32. *Id.*

33. *Oliphant v. Suquamish Tribe*, 435 U.S. 191, 208 (1978).

34. See *infra* Section III(A).

35. *Frequently Asked Questions*, U.S. DEPT. OF THE INTERIOR: INDIAN AFFAIRS, <https://www.bia.gov/frequently-asked-questions> (last visited Sept. 30, 2018).

36. Krista Langlois, *Tribes Now Prosecute Non-Native Offenders, Alaska Scrambles to Catch Up*, HIGH COUNTRY NEWS (May 21, 2014), <https://www.hcn.org/blogs/goat/tribes-move-to-prosecute-non-native-offenders-alaska-scrambles-to-catch-up>.

37. ALASKA LEGAL SERVS. CORP., *supra* note 29, at 16. In general, Indian country is “the territorial area over which a tribe can make and enforce laws.” LISA JAEGAR, TRIBAL COURT DEVELOPMENT: ALASKA TRIBES at ch. 1 (3d ed. 2002), http://thorpe.ou.edu/AKtribalct/chapter_one.html. Indian country includes all land within an Indian reservation, all dependent Indian communities, and Indian allotments with non-extinguished Indian titles. 18 U.S.C. § 1151 (2012).

38. See *infra* Section III(B)(ii).

This Note will first provide background information on current tribal sovereignty and tribal court jurisdiction in Alaska. This Note will then argue that, outside Alaska's limited Indian Country, tribal courts currently lack the authority to banish non-Native Alaskans because they have not consented to the tribal court's authority. This Note will argue that tribal jurisdiction and authority should be expanded to allow tribal banishments to protect the welfare of rural Alaska Native communities. Alaska's expansive size, limited rural law enforcement, and drug and alcohol issues justify this unique response of expanding tribal jurisdiction over non-Natives. Granting tribal courts this jurisdiction would empower rural Alaska Natives to address the high rates of alcohol and drug-related crime in their communities while simultaneously decreasing the burdens on the Alaska State Troopers. Thus, the State of Alaska should work with the United States federal government to grant tribal courts the authority to banish non-Natives in specific, limited situations.

II. BACKGROUND

Before discussing whether Alaska Native tribes have the power to banish non-Natives from rural Alaskan villages, this Section will discuss tribal sovereignty, how federal and state governments regulate Alaska Native tribes, the structure and authority of tribal courts, and the basics of banishment.

A. Tribal Sovereignty

Tribes have the power to create tribal courts, enact laws on matters within their jurisdiction, and enforce those laws.³⁹ Under the Indian Tribal Justice Act, "Indian tribes possess the inherent authority to establish their own form of government, including tribal justice systems."⁴⁰ This authority comes from the sovereign power of the tribe that functions in conjunction with the sovereign power of the United States.⁴¹

Tribes functioned as sovereign nations long before the arrival of Europeans in the Americas.⁴² By the time European-American settlers

39. *Federal Recognition of Alaska Tribes and Relations with the State of Alaska*, UNIV. OF ALASKA FAIRBANKS, <http://tribalmgmt.uaf.edu/tm112/Unit-4/Federal-Recognition-of-Alaska-Tribes-and-Relations-with-the-State-of-Alaska> (last visited Sept. 30, 2018) [hereinafter *Federal Recognition of Alaska Tribes*].

40. Indian Tribal Justice Act, 25 U.S.C. § 3601(4) (2012).

41. *Federal Recognition of Alaska Tribes*, *supra* note 39.

42. See generally Thomas E. Gillispie, *An Overview of Alaskan's Prehistoric Cultures*, ALASKA DEPT. OF NAT. RES., <http://dnr.alaska.gov/parks/oha/publications/oha173overviewofalaskaprehistory.pdf> (last visited Oct. 20, 2018); see also ERNEST S. BURCH, *ALLIANCE AND CONFLICT: THE WORLD SYSTEM OF THE*

reached Alaska in the 1700s, Alaska Native tribes including “the Tlingits, Haidas, Athabaskans, Eskimos, and Aleuts had defined territorial boundaries.”⁴³ “Their citizens thought of themselves as being separate peoples and they engaged one another in war and in trade.”⁴⁴

The sovereignty of these tribes was never extinguished after the United States was formed and Alaska became a state, and tribal governments continue to have specific sovereign powers.⁴⁵ “Perhaps the most basic principle of all Indian law . . . is that those powers lawfully vested in an Indian nation are not, in general, delegated powers granted by express acts of Congress, but rather ‘inherent powers of a limited sovereignty which have [sic] never been extinguished.’”⁴⁶ Congress limited or terminated all sovereign powers that were inconsistent with tribal dependence on the United States when tribes were incorporated into the United States, namely the powers to declare war, control currency, and form treaties.⁴⁷ But tribes retained the power to determine their own membership, form of government, justice system, and internal affairs.⁴⁸

A 1993 Department of the Interior opinion officially recognized Alaska Native tribes, ascribing them “all the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their government-to-government relationship with the United States as well as the responsibilities, powers, limitations and obligations of such tribes.”⁴⁹ Despite this, the sovereign status of Alaska Native tribes remained unclear until the Alaska Supreme Court acknowledged the sovereignty of Alaska Natives in *John v. Baker*.⁵⁰ With this recognized sovereignty, Alaska Native tribes can have tribal governments and courts that function separately from the State of Alaska and the United States federal

IÑUPIAQ ESKIMOS 3 (2005) (stating that early-nineteenth century tribes were analogous to modern nations).

43. See *Alaska’s Prehistoric and Protohistoric Past*, ALASKA HUMANITIES FORUM, <http://www.akhistorycourse.org/alaskas-cultures/alaskas-heritage/chapter-2-1-alaskas-prehistoric-and-protohistoric-past> (last visited Apr. 27, 2018).

44. BÜRCH, *supra* note 42, at 3.

45. DAVID S. CASE & DAVID A. VOLUCK, *ALASKA NATIVES AND AMERICAN LAWS* 438 (3d ed. 2012).

46. *United States v. Wheeler*, 435 U.S. 313, 322–23 (1978).

47. *Frequently Asked Questions*, U.S. DEPT. OF THE INTERIOR: INDIAN AFFAIRS, <https://www.bia.gov/frequently-asked-questions> (last visited Sept. 30, 2018).

48. CASE & VOLUCK, *supra* note 45, at 380.

49. U.S. DEPT. OF THE INTERIOR, *GOVERNMENTAL JURISDICTION OF ALASKA NATIVE VILLAGES OVER LAND AND NON-MEMBERS* (1993).

50. See 982 P.2d 738, 752 (Alaska 1999), *cert. denied*, 528 U.S. 1182 (2000) (identifying and following Congressional intent that “tribal sovereignty with respect to issues of tribal self-governance exists unless divested” by treaty or statute).

government.⁵¹ Without sovereign power, tribes would be unable to control who has membership in their tribe, who receives tribal benefits, and who receives custody of a child in an internal dispute. Absent these powers, the question of whether tribes could banish even tribal members from a village would be a clear no.

B. Federal and State Regulation of Tribes

Alaska Native sovereign nations existed long before the United States Constitution.⁵² This pre-constitutional status “places them firmly beyond the scope of the U.S. Constitution and the Bill of Rights.”⁵³ However, this does not mean that tribes are left unregulated by federal and state governments. Because of the tribes’ incorporation into the United States, Congress does have plenary power to regulate Indian affairs and can “limit, modify or eliminate the powers of local self-government which the tribes otherwise possess.”⁵⁴ This federal power to regulate is “explicitly and implicitly rooted in the Constitution,”⁵⁵ and also found in the federal government’s guardianship responsibility to the tribes.⁵⁶

The power to regulate Indian affairs is exclusive to the federal government.⁵⁷ States only become directly involved when Congress delegates specific powers to them.⁵⁸ However, State support of tribes’ governmental and judicial activities remains important and state-tribe cooperation facilitates tribal sovereignty.⁵⁹ As will be discussed later in this Note, this state cooperation is especially important in Alaska because of the lack of Indian country, the associated absence of broad federal jurisdiction, and the resultant coextensive jurisdiction with state courts.⁶⁰

51. CASE & VOLUCK, *supra* note 45, at 380.

52. Angela R. Riley, *Good (Native) Governance*, 107 COLUM. L. REV. 1049, 1055 (2007).

53. *Id.*

54. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 56 (1978).

55. *Morton v. Mancari*, 417 U.S. 535, 551–52 (1974).

56. *Id.* at 551.

57. U.S. DEPT. OF THE INTERIOR: INDIAN AFFAIRS, *supra* note 47; Nell Jessup Newton, *Federal Power over Indians: Its Sources, Scope, and Limitations*, 132 U. PENN. L. REV. 195, 237 (1984).

58. *Id.*

59. See *Federal Recognition of Alaska Tribes*, *supra* note 39 (explaining the history of state government opposition to tribal sovereignty and the importance of state control of agencies that interact with tribes).

60. See *infra* Section III.

C. Tribal Courts

Tribal sovereignty includes the power to create tribal courts to enforce tribal laws.⁶¹ More than half of the 229 recognized tribes in Alaska are developing or have created active tribal courts.⁶² These tribal courts are intended to improve access to a court system in rural Alaska Native communities while incorporating tribal culture into the justice system.⁶³

Tribal court structures differ from tribe to tribe.⁶⁴ As sovereigns, individual tribes can choose a structure that best fits their cultural history and community needs.⁶⁵ While tribal courts in the Lower 48 tend to mirror the adversarial nature of U.S. state and federal courts, Alaska tribal courts focus more on healing than punishment.⁶⁶ For example, informal hearing styles and justice circles are common in Alaska's tribal courts.⁶⁷

Tribal courts are typically comprised of respected members of a tribe, including members of the tribal council and tribal elders—but not attorneys.⁶⁸ Judges can be “appointed by the council, elected by the tribal membership, or a combination of elected and appointed judges may be used.”⁶⁹ In smaller villages, the tribal council typically also serves as the tribal court.⁷⁰ Consensus decision-making is common in Alaska Native tribal courts, with panels of judges making decisions as a group and in consultation with the broader community.⁷¹

Tribal courts deal with civil and criminal matters.⁷² They typically hear a wide variety of cases, including child custody, adoptions and guardianships, child protection, domestic violence, probate, alcohol violations, juvenile delinquency, misdemeanor offenses, and fish/game/marine mammal protection.⁷³ State and tribal courts have concurrent jurisdiction over these matters—whichever court hears a case

61. CASE & VOLUCK, *supra* note 45, at 437.

62. *Modern Tribal Governments in Alaska*, UNIV. OF ALASKA FAIRBANKS, <http://tribalmgmt.uaf.edu/tm112/Unit-4/Modern-Tribal-Governments-in-Alaska> (last visited Sept. 30, 2018) [hereinafter *Modern Tribal Governments*].

63. Geoffrey Wildridge, *President's Column: Access to Justice: The Continuing Debate over the Role of Tribal Courts in Rural Alaska*, 38 ALASKA BAR RAG 2, 3 (2014).

64. JAEGAR, *supra* note 37, at ch. 4.

65. *Id.*

66. ALASKA LEGAL SERVS. CORP., *supra* note 29, at 27.

67. JAEGAR, *supra* note 37, at ch. 3.

68. *Modern Tribal Governments*, *supra* note 62.

69. JAEGAR, *supra* note 37, at ch. 3.

70. *Id.*

71. *Id.*

72. *Id.*

73. See ALASKA LEGAL SERVS. CORP., *supra* note 29; *Federal Recognition of Alaska Tribes and Relations with the State of Alaska*, UNIV. OF ALASKA FAIRBANKS, <http://tribalmgmt.uaf.edu/tm112/Unit-4/Federal-Recognition-of-Alaska-Tribes-and-Relations-with-the-State-of-Alaska> (last visited Apr. 27, 2018).

first generally assumes jurisdiction over that matter.⁷⁴ However, tribal court decisions are subject to habeas corpus review in federal court.⁷⁵

Tribal courts are regulated under the Indian Civil Rights Act (ICRA),⁷⁶ which guarantees certain rights to parties brought before the court. These rights include: protection from double jeopardy,⁷⁷ self-incrimination,⁷⁸ cruel and unusual punishment,⁷⁹ equal protection of the law,⁸⁰ and due process.⁸¹ The ICRA also limits tribal court punishments to three years imprisonment or a \$15,000 fine.⁸²

D. Banishment

Several tribal courts in Alaska have recently banished tribal members and non-members from their communities.⁸³ Banishment is a traditional form of punishment indigenous communities, including Alaska Native tribes, use to prevent an undesirable person from remaining in a specific village or other tribal area.⁸⁴ The punishment can be broad or limited in scope, preventing a person's access to a specific part of a community or an entire village, for a short or extended period of time.⁸⁵ Banishment has made a resurgence recently as isolated rural communities try to deal with increasing drug and alcohol related crime.⁸⁶

Traditionally, banishment was intended to serve a rehabilitative purpose, with the banished person returning to and reintegrating with the community at the end of the banishment period.⁸⁷ For example, in 1994, two Alaskan teenage boys, members of the Tlingit tribe, committed

74. *Alaska Tribal Sovereignty and Jurisdiction: Major Case Law Affecting Alaska Tribal Jurisdiction*, UNIV. OF ALASKA FAIRBANKS, <http://tribalmgmt.uaf.edu/tm112/Unit-4/Alaska-Tribal-Sovereignty-and-Jurisdiction-Major-case-law-affecting-Alaska-tribal-jurisdiction> (last visited May 2, 2018).

75. JAEGAR, *supra* note 37, at ch. 1.

76. Indian Civil Rights Act of 1968, 25 U.S.C. §§ 1301-03 (2012).

77. *Id.* § 1302(a)(3).

78. *Id.* § 1302(a)(4).

79. *Id.* § 1302(a)(7)(A).

80. *Id.* § 1302(a)(8).

81. *Id.*

82. *Id.* § 1302(b).

83. *See, e.g.,* Cotsirilos, *supra* note 6. Although the validity of banishment as a punishment can be debated, this issue falls beyond the scope of this Note. At least one court has indicated that tribal courts have the authority to banish individuals from their communities, at least in limited circumstances. *See* Village of Perryville v. Tague, No. 3AN-00-12245 CI, 2003 WL 25446105 (Alaska Super. Ct. 2003) (holding that Alaska Native tribes have the right to banish tribal members from their villages, at least as a response to violent behavior).

84. Riley, *supra* note 52, at 1103.

85. *Id.* at 1106.

86. *Id.* at 1104.

87. *Id.* at 1103-04.

an armed robbery in Washington State.⁸⁸ The charges were ultimately transferred to a Tlingit tribal court that imposed a sentence of one year of banishment to uninhabited islands in the Gulf of Alaska, plus restitution to the victim.⁸⁹ The banishment was intended to serve a rehabilitative purpose, “requir[ing] these young men to improve themselves and to ruminate upon their crime.”⁹⁰ The banishment was for a limited period of time and provided for the teenagers’ future return to and reintegration with Tlingit tribal society.⁹¹

II. BANISHMENT AND TRIBAL JURISDICTION OVER NON-NATIVES

To claim jurisdiction over a person, a Native or non-Native, an Alaska Native tribal court must satisfy three requirements:

- (A) Jurisdiction over the matter (subject matter jurisdiction)⁹²
- (B) Jurisdiction over the parties (personal jurisdiction)⁹³
- (C) Reasonable notice and opportunity to be heard for the defendant (due process protections)⁹⁴

A. Subject Matter Jurisdiction

Tribal courts in Alaska, and throughout the Lower 48, cannot exercise criminal jurisdiction over non-Natives absent specific congressional authorization.⁹⁵ In *Oliphant v. Suquamish Indian Tribe*, the United States Supreme Court stated that “[b]y submitting to the overriding sovereignty of the United States, Indian tribes therefore necessarily give up their power to try non-Indian citizens of the United States except in a manner acceptable to Congress.”⁹⁶ Thus, tribal jurisdiction over non-Natives arises almost exclusively over civil matters.

However, some cases typically considered criminal are often handled as civil cases or quasi-criminal cases in tribal courts throughout

88. John Balzar, *Two Alaska Indian Youths Banished to Islands for Robbery*, L.A. TIMES (July 15, 1994), http://articles.latimes.com/1994-07-15/news/mn-158401_alaska-indians.

89. *Id.*

90. *Id.*

91. *Id.*

92. ALASKA LEGAL SERVS. CORP., *supra* note 29, at 14.

93. *Id.*

94. *Id.*

95. See *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 212 (1978) (holding that Indian tribes do not have the inherent power to assert criminal jurisdiction over non-Indians).

96. *Id.* at 210.

Alaska, including alcohol importation, vandalism, and driving under the influence.⁹⁷ Quasi-criminal cases are civil cases that result in punitive sanctions—a sanction that is “so ‘divorced’ from any remedial or compensatory goal that [it] constitute[s] punishment that invokes constitutional limits not implicated in ordinary civil process.”⁹⁸ Quasi-criminal cases are defined by their associated “significant loss of liberty, often coupled with stigmatic harm”—such as with their use to prevent sex offenders from residing in certain areas.⁹⁹ This classification applies to tribal banishment of non-Native Alaskans and indicates that such banishment is likely quasi-criminal and not exclusively a civil matter. It is not clear whether Alaska Native tribal courts have jurisdiction over quasi-criminal matters involving non-Natives. More clarification from the state government, federal government, or the courts is necessary.¹⁰⁰

Alaska Native tribal courts have jurisdiction over limited types of cases. Federal law has recognized broad tribal jurisdiction in domestic relations cases, including marriage, divorce, custody, paternity, child support, adoption, and family violence.¹⁰¹ Tribes in Alaska also have jurisdiction over cases involving the possession of alcohol, bootlegging, drunk and disorderly conduct, driving under the influence, sale and possession of drugs, juvenile cases, and domestic relations.¹⁰²

Because Alaska Native tribes have jurisdiction over cases involving the possession of alcohol, bootlegging, and the sale and possession of drugs, tribal courts can assert subject matter jurisdiction over the types of cases considered in this Note. These cases must be brought as quasi-criminal cases when banishment is a punishment option because tribal courts cannot exercise criminal jurisdiction over non-members and banishment is more severe than traditional civil penalties.

B. Personal Jurisdiction

Subject matter jurisdiction alone is insufficient for tribal courts to claim jurisdiction over non-Native defendants like Ronald Oertwich. The court must also have personal jurisdiction over the parties involved in the case. The existence of personal jurisdiction differs depending on what

97. ALASKA LEGAL SERVS. CORP., *supra* note 29, at 27.

98. Gregory Porter, *Uncivil Punishment: The Supreme Court's Ongoing Struggle with Constitutional Limits on Punitive Civil Sanctions*, 70 S. CAL. L. REV. 517, 521 (1997).

99. John Kip Cornwell, *The Quasi-Criminality Revolution*, 85 UMKC L. REV. 311, 312 (2017).

100. ALASKA LEGAL SERVS. CORP., *supra* note 29, at 27.

101. *Id.* at 18–19, 22–23.

102. *Id.*

type of land the incident happened on and whether the parties involved are tribal members or non-members.

i. Land-Based Jurisdiction

Tribal jurisdiction based on physical territory is a more difficult proposition in Alaska than in the Lower 48 because of the absence of reservations in Alaska.¹⁰³ With reservations, the borders of their land-based jurisdiction are more clearly defined and the tribes are empowered to make judgments on issues that arise within those borders as long as the issue is an appropriate topic for the tribal court and involves covered parties.¹⁰⁴

However, most Alaska tribes lack the clear borders reservation lands provide. Before the Alaska Native Claims Settlement Act of 1971 (ANCSA), some 150 reservations existed in the state.¹⁰⁵ Today, the state has only one recognized Native reservation, the Annette Island Reserve for Metlakatla Indians¹⁰⁶—designated as a reservation by the Secretary of the Interior on August 23, 1944.¹⁰⁷ As a reservation, Metlakatla is able to claim land-based jurisdiction over incidents that happen within the reservation's borders.¹⁰⁸

Outside of Metlakatla, the majority of traditional Alaska Native lands were distributed through ANCSA.¹⁰⁹ Land titles granted under ANCSA were vested in tribal corporations, not tribal governments.¹¹⁰ ANCSA did not create a formal reservation system and the lands distributed through it do not qualify as Indian country under federal law.¹¹¹ Some commentators assert that Alaska Native Allotments¹¹² and

103. U.S. DEPT. OF THE INTERIOR: INDIAN AFFAIRS, *supra* note 47.

104. *See* *Montana v. United States*, 450 U.S. 544, 566 (1981) (holding that tribes have the inherent authority to exercise civil jurisdiction on non-Indians within the tribe's reservation "when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe").

105. CASE & VOLUCK, *supra* note 45, at 27.

106. U.S. DEPT. OF THE INTERIOR: INDIAN AFFAIRS, *supra* note 47.

107. U.S. DEPT. OF THE INTERIOR, CONSTITUTION AND BY-LAWS OF THE METLAKATLA INDIAN COMMUNITY ANNETTE ISLANDS RESERVE, ALASKA (1944).

108. In Indian country, the *Montana* factors discussed below will apply. The tribe would be able to regulate non-Natives on their land when the non-Native has a consensual relationship with the tribe or a tribal member, *Montana v. United States*, 450 U.S. 544, 565 (1981), or when the non-Native threatens "the political integrity, the economic security, or the health and welfare of the Tribe," *id.* at 566.

109. *Alaska v. Native Village of Venetie Tribal Gov't*, 522 U.S. 520, 524 (1998).

110. *Id.*

111. *Id.* at 531-32.

112. Alaska Native Allotments were established by the Alaska Native Allotment Act of 1906, 34 Stat. 197 (1906). The Act passed land from federal ownership to individual Alaska Native owners.

Alaska Native Townsites¹¹³ qualify as Indian Country, potentially creating some land-based jurisdiction in Alaska outside of the Metlakatla Reservation.¹¹⁴

While the expansion of Indian country and land-based tribal jurisdiction will broaden jurisdiction over tribal members, it is unlikely to significantly expand jurisdiction over non-members. Tribal courts must still show that one of the exceptions in *Montana v. United States* applies to exercise jurisdiction over non-members.¹¹⁵ The *Montana* exceptions allow tribes to impose jurisdiction over non-members within Indian country when either (1) the non-member consents to tribal jurisdiction or (2) when the non-member's actions "impact [the] health or welfare of the tribe" or its political integrity or economic security.¹¹⁶

Regarding non-member consent, non-members of tribes regularly choose to participate in tribal courts in Alaska due to lack of access to state court judicial officers, thus consenting to tribal jurisdiction.¹¹⁷ Here, consent means "a voluntary acceptance, whether explicit or implicit, by a non-Indian of tribal [] jurisdiction."¹¹⁸ A non-member can consent by filing a suit in tribal court, by filing a cross-claim, or by waiving their right to challenge tribal jurisdiction.¹¹⁹ For example, in *John v. Baker*, the Alaska Supreme Court recognized a tribal court custody order between one parent who was a tribal member and one parent who was a non-member

113. Alaska Native Townsites were created under the Alaska Native Townsite Act of 1926, 44 Stat. 629 (1926). These Townsites are restricted lots that have federal oversight.

114. *Relationships Between Alaska and Lower 48 Tribes*, UNIV. OF ALASKA FAIRBANKS, <https://web.archive.org/web/20170514071521/http://tribalmgmt.uaf.edu:80/tm112/Unit-4/Relationships-between-Alaska-and-Lower-48-Tribes> (last visited Apr. 27, 2018) [hereinafter *Relationships Between Tribes*].

115. See *Montana v. United States*, 450 U.S. 544, 566 (1981) ("A tribe may also retain inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.").

116. *Id.* at 565, 566.

117. See ALASKA LEGAL SERVS. CORP., *supra* note 29, at 19 ("Non-members choosing to participate in tribal court is relatively common in Alaska."); CASE & VOLUCK, *supra* note 45, at 438 (noting that "the great majority of communities lack a resident magistrate or other state court judicial officer").

118. Paul Spruhan, "Indians, in a Jurisdictional Sense": *Tribal Citizenship and Other Forms of Non-Indian Consent to Tribal Criminal Jurisdiction*, 1 AM. INDIAN L.J. 79, 81 (2012). This source discusses consent to tribal criminal jurisdiction, but the same principles apply to tribal civil jurisdiction as well. See CASE & VOLUCK, *supra* note 45, at 438.

119. See Spruhan, *supra* note 118, at 82 n.23 (stating that "[t]he U.S. Supreme Court in *Duro v. Reina* believed that acquiescence to tribal jurisdiction may be why there were, in its view, few federal challenges to tribal court jurisdiction").

because the non-member parent expressly consented to tribal jurisdiction.¹²⁰ Express consent is not the only way to consent to tribal jurisdiction. Non-members can also consent to tribal jurisdiction implicitly by forming ongoing consensual relationships with tribes “through commercial dealing, contracts, leases, and other arrangements.”¹²¹

Additionally, under *Montana*, the tribal court can assert its jurisdiction when the non-member’s actions have “some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.”¹²² However, this impact-based factor only definitively applies when the non-member acted on lands within a reservation.¹²³ Even on reservation lands, it is a difficult standard to meet, requiring that the alleged action must “do more than injure the tribe, it must ‘imperil the subsistence’ of the tribal community.”¹²⁴ If reservations are expanded in Alaska, this factor could become a valuable tool for asserting tribal jurisdiction over drug- and alcohol-related cases. Drug abuse and alcoholism are substantially damaging the health and economic security of Alaska Native communities.¹²⁵ But whether the harm is significant enough to trigger tribal jurisdiction is yet to be seen. Because of the current lack of substantial Indian country in Alaska, however, tribal courts will not be able to exercise jurisdiction over non-members based solely on a theory of land-based jurisdiction.

ii. Tribal Membership-Based Jurisdiction

This Note is focused on banishment of non-Natives and will not include an expansive discussion of tribal jurisdiction over members. It is important to recognize that tribal jurisdiction over tribal members is much broader than it is over non-members.¹²⁶ Tribal members have an ongoing consensual relationship with the tribe and it is therefore appropriate to subject them to the laws that tribe enacted.¹²⁷ As long as a

120. 982 P.2d 738, 743 (Alaska 1999).

121. *Montana v. United States*, 450 U.S. 544, 565 (1981). For example, the Supreme Court allowed taxes to be applied to non-members that accepted “privileges of trade, residence, etc., to which taxes may be attached as conditions.” *Washington v. Confederated Tribes of Colville Indian Reservation*, 447 U.S. 134, 153 (1980).

122. *Montana*, 450 U.S. at 566.

123. *Id.*

124. *Plains Commerce Bank v. Long Family Land & Cattle Co.*, 554 U.S. 316, 341 (2008).

125. Horwitz, *supra* note 7.

126. Jane M. Smith, *Tribal Jurisdiction Over Nonmembers: A Legal Overview, Summary*, CONG. RESEARCH SERV. (2013), fas.org/sgp/crs/misc/R43324.pdf.

127. *See Duro v. Reina*, 495 U.S. 676, 677 (1989) (tying together broad

tribe has jurisdiction over the subject matter at issue, the tribe will likely be able to assert jurisdiction over the matter.¹²⁸ One exception is that tribal courts do not have jurisdiction to hear certain felonies¹²⁹ even when committed by and against members of that tribe because of specific limitations enacted by Congress.¹³⁰

iii. Jurisdiction Over Non-Members Outside Indian Country

Tribal courts have very limited jurisdiction over non-members of a tribe.¹³¹ As discussed above, non-members do become subject to tribal jurisdiction if they meet either of two *Montana* factors.¹³² While *Montana* itself dealt with an issue in Indian country, *Montana* factors could potentially be applied to non-Natives whose activities outside Indian country adversely affected tribal internal matters.¹³³

Tribes can also exercise jurisdiction over non-members with congressional authorization.¹³⁴ For example, the Violence Against Women Act (VAWA) recognized a special tribal domestic violence criminal jurisdiction in specific cases, regardless of the Native or non-Native status of the perpetrator.¹³⁵ This special jurisdiction is limited, and only attaches if the non-Native has sufficient ties with the tribe—living or working in Indian country or having a current or former partner who is Native and resides in Indian country.¹³⁶ The VAWA’s application in Alaska remains unclear because of the Act’s reliance on land-based

jurisdiction over tribal members with the ongoing consensual relationship).

128. See *id.* (noting that tribal jurisdiction generally allows sovereignty to control internal relations).

129. Under the Major Crimes Act, federal courts have exclusive jurisdiction over its listed offenses and tribal courts cannot exercise jurisdiction over these case types. 18 U.S.C. § 1153 (2012). The listed offenses include “murder, manslaughter, kidnapping, maiming, sexual abuse under Ch. 109-A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, assault on a person less than 16 years old, felony child abuse or neglect, arson, burglary, robbery, theft under 18 U.S.C. § 661.” *Id.*

130. *Id.*

131. Smith, *supra* note 126, at 1.

132. See discussion *supra* Section III(B)(i).

133. See *John v. Baker*, 982 P.2d 738, 758 (Alaska 1999) (“[T]he existence of Indian country is not a dispositive factor in determining jurisdiction.”); see also Violence Against Women Act, 18 U.S.C. § 2265 (2012); Indian Child Welfare Act, 25 U.S.C. § 1911 (mandating full faith and credit for Tribal Court decisions potentially affecting non-members).

134. Smith, *supra* note 126, at 2.

135. 25 U.S.C. § 1304(a)(6) (2012).

136. Rebecca Howlett, *The Need to Preserve and Expand Tribal VAWA Jurisdiction and Federal Resources*, KILPATRICK TOWNSEND & STOCKTON LLP (June 15, 2017), <https://www.lexology.com/library/detail.aspx?g=55028e5a-5418-4f22-9046-9dd30970f7d5>.

jurisdiction, but it does provide an example of Congress authorizing expanded tribal jurisdiction.¹³⁷

C. Due Process

In 1968, Congress recognized the need to extend a portion of the Bill of Rights to tribal jurisdictions and elected to do so through the Indian Civil Rights Act of 1968 (ICRA).¹³⁸ The ICRA parallels the Bill of Rights in many respects, most importantly by placing due process requirements on tribal justice.¹³⁹ The Act also bars tribal courts from sentencing offenders to more than three years or a fine of more than \$15,000.¹⁴⁰

Due process requires notice, an opportunity to be heard, an impartial judge, and fairness in the proceedings.¹⁴¹ An Alaskan state court will not interfere with a tribal court decision so long as the court has jurisdiction and follows due process procedures.¹⁴²

In *Nevada v. Hicks*,¹⁴³ Justice Souter expressed concerns about the potential effects of tribal court jurisdiction over non-members.¹⁴⁴ Justice Souter was specifically concerned that tribal courts were not interpreting the ICRA as imposing the same due process requirements upon them as the federal Bill of Rights.¹⁴⁵ He also worried that tribal law is often unwritten, meaning that non-members often lack notice that a law exists until they have violated it and are brought before the tribal court.¹⁴⁶

However, tribal courts are perfectly capable of meeting the due process standards required to legitimize their jurisdiction over a case when provided with the necessary resources. There is nothing inherent in tribal courts' structure that makes their processes inconsistent with basic notions of due process. Tribal courts are often under-resourced, and some say they have a history of failing to provide legal protections to defendants and that they are racially exclusive.¹⁴⁷ These are issues that

137. *Id.*

138. Indian Civil Rights Act of 1968, 25 U.S.C. §§ 1301-03 (2012).

139. Peter W. Birkett, *Indian Tribal Courts and Procedural Due Process: A Different Standard*, 49 IND. L.J. 721, 721 (1974).

140. § 1302.

141. See Ryan Fortson, *Advancing Tribal Court Criminal Jurisdiction in Alaska*, 32 ALASKA L. REV. 93, 131 (2015).

142. *Id.*

143. 533 U.S. 353 (2001) (Souter, J., concurring).

144. *Id.* at 375-86.

145. *Id.* at 384.

146. See *id.* at 384-85 (“[T]here is a definite trend by tribal courts toward the view that they have leeway in interpreting the ICRA’s due process and equal protection clauses and need not follow the U.S. Supreme Court precedents jot-for-jot.”) (internal quotations omitted).

147. Jill Elizabeth Tompkins, *Defining the Indian Civil Rights Act’s “Sufficiently*

will need to be addressed while expanding tribal court jurisdiction, but suggested solutions go beyond the scope of this Note.

Where proper due process procedures are not in place, the matter can be appealed and those discrepancies can be addressed.¹⁴⁸ Expressing concern about due process issues does not negate the validity of tribal court jurisdiction or banishment as a whole; it simply indicates standards that must be met within the existing system.

III. BANISHMENT CAN BE A VALUABLE TOOL FOR ALASKA NATIVE TRIBES

The Indian Law and Order Commission, empowered by Congress, concluded that devolving authority to Alaska Native communities is essential for addressing local issues.¹⁴⁹ The Commission found that the current centralized systems of law enforcement and justice consistently fail to address the needs of the 229 federally recognized Alaska Native tribes.¹⁵⁰ High rates of alcoholism, drug abuse, and attendant crime¹⁵¹ indicate the importance of addressing bootlegging and the sale or possession of drugs. It is abundantly clear that something needs to be done to allow Alaska Native communities to better address these issues; whether banishment provides a valid strategy is less clear.

Alaska Native tribes do not imprison individuals because they lack the necessary resources to comply with Indian Civil Rights Act requirements or fund an incarceration system.¹⁵² Incarceration is expensive and rural communities lack the infrastructure and resources to impose this punishment.¹⁵³ Thus, banishment provides a more feasible alternative. Banishment allows Alaska Native communities to prevent the people who are illegally providing alcohol and drugs from residing in or entering the communities.¹⁵⁴ In rural areas where law enforcement is days away by plane and may only be dispatched when death or serious injury occurs, restricting the entrance of individuals bringing in drugs and

Trained Tribal Court Judge, 4 AM. INDIAN L.J. 53, 58 (2015).

148. See Fortson, *supra* note 141, at 142 (“Where due process is not followed in tribal court, Alaska courts will not recognize the tribal court decision . . . [D]ue process may be different in tribal courts than state courts.”).

149. INDIAN LAW & ORDER COMM’N, A ROADMAP FOR MAKING NATIVE AMERICA SAFER xii (2013).

150. *Id.* at 35.

151. See *id.* at 151 (noting early, unexpected, and traumatic death rates among Native people exceeds the all-races rate by seven times).

152. ALASKA LEGAL SERVS. CORP., *supra* note 29, at 27.

153. See *id.* (“Most tribes lack the resources to consider funding a full western-style system of incarceration, with correctional centers, prosecutors, and public defenders.”).

154. See *supra* Section II(D).

alcohol can be an effective way to protect the community from further harm.¹⁵⁵

Banishment also has deterrent effects for some perpetrators if they are aware of the potential for banishment.¹⁵⁶ The thought of losing one's community, home, and job has the potential to deter many community members from bootlegging or drug importation.¹⁵⁷ While this will not necessarily deter people who come from outside the community with no intent to remain in that community, it could reduce the sale, possession, and use of drugs and alcohol to some extent.

However, if the potential punishment is simply a fine or other minor imposition, then people may not be adequately disincentivized. Bootleggers and drug dealers can make significant amounts of money by breaking the law,¹⁵⁸ which becomes especially enticing in communities with high rates of unemployment—like rural Alaska.¹⁵⁹

Banishment also removes offenders from the environments that they found most tempting. The sale of alcohol or drugs requires a network to sell to. Removing a bootlegger or drug dealer from their community removes them from this network and restricts their ability to continue their sales. However, an argument against banishment is that these bootleggers and drug dealers can simply rebuild their network in the next village they land in. In this sense, banishment allows a community to pass its problems onto another community, fixing their own problem but creating a problem for others.¹⁶⁰

155. See *supra* Section I.

156. Patrice H. Kunesh, *Banishment as Cultural Justice in Contemporary Tribal Legal Systems*, 37 N.M. L. REV. 85, 117–18 (2007).

157. See *id.* at 117 (“[T]hese banishment and expulsion laws further serve as a social contract between the community and the individual tribal members.”); see also Sarah Kershaw & Monica Davey, *Plagued by Drugs, Tribes Revive Ancient Penalty*, N.Y. TIMES (Jan. 18, 2004), <https://www.nytimes.com/2004/01/18/us/plagued-by-drugs-tribes-revive-ancient-penalty.html> (discussing banishment’s potential deterrent effects).

158. See Dan Barry, *Bootleggers Playing Hide-and-Seek on the Tundra*, N.Y. TIMES (Oct. 12, 2008), <https://www.nytimes.com/2008/10/13/us/13land.html> (noting that a bottle of R&R whiskey that sells for \$10 in Anchorage can sell for \$300 in a dry rural village).

159. Unemployment rates in rural Alaska reached 12% by 2006, much higher than the 5.3% unemployment seen in Anchorage. Goldsmith, *supra* note 11, at 9. In 120 Alaska Native villages, more than half of the adult population did not have jobs (entire population, not just those that actually wanted work). *Id.*

160. See Brian Palmer, *Can States Exile People?*, SLATE (Jan. 24, 2013), http://www.slate.com/articles/news_and_politics/explainer/2013/01/banishment_as_punishment_is_it_constitutional_for_states_to_exile_criminals.html (“[Banishment] could lead to a dance of the lemons, as each state tries to turn its neighbor into a prison colony, thereby avoiding the expense of imprisonment.”).

The argument that banishment just transfers the problem to another village raises the question of what the alternative is. Allowing bootleggers and drug dealers to continue residing in the communities that they are harming does nothing to solve the problem. One solution would be for the state of Alaska to expand access to the state court system, but this would likely be a slow, expensive, and difficult process. Banishment can provide a more immediate means of countering drug and alcohol issues in rural Alaska Native villages and the state government should do what it can to facilitate its use. In rural villages, access to state courts is poor.¹⁶¹ Giving local tribes the power to adjudicate their own issues independently from the state improves access to justice and can help these communities address their high levels of drug abuse and alcoholism.¹⁶²

However, because of the potentially drastic effects of banishment, tribal courts should only be empowered to use it in limited circumstances. First, tribal courts need to be given expanded jurisdiction to cover alcohol and drug-related offenses committed by non-Natives in their communities.¹⁶³ Alcohol and drug-related offenses and abuse are major issues in rural Alaska Native communities, justifying expanded jurisdiction similar to that provided under the Violence Against Women Act.¹⁶⁴ As mentioned previously, VAWA's applicability in Alaska is limited by its reliance on land-based jurisdiction, a problem that should be avoided in future legislation.¹⁶⁵ Parties can either work to expand Indian country in Alaska or Congress can rely on more than land-based jurisdiction when crafting this alcohol and drug law. Applying the *Montana* exceptions outside of Indian country would be one way to do this—allowing jurisdiction over non-Natives when there is express or implied consent to tribal jurisdiction or significant impacts on the tribe's welfare. Once tribal jurisdiction over non-Native drug and alcohol issues has been established, tribes must determine appropriate strategies for using banishment to address these issues.

One of the strongest arguments in favor of banishment is its status as a traditional tribal response.¹⁶⁶ The tribal courts are intended to incorporate tribal culture into the tribal justice system.¹⁶⁷ Banishment is simply an extension of that ideal. Following logically from this justification, banishment should be implemented in the traditional manner. Banishment traditionally served a rehabilitative purpose, to

161. See *supra* Section I.

162. *Id.*

163. See *supra* Section III.

164. See *supra* Section I.

165. Howlett, *supra* note 136.

166. See *supra* Section II(C).

167. *Id.*

force an individual to consider the effects of his actions by separating him from his community and to work to reintegrate him at the end of his banishment period.¹⁶⁸ This is how Alaska Native tribal courts should use banishment.

Banishments should be for a defined, limited period of time—enough time for the perpetrator to consider his actions but not so long that reintegration becomes difficult. After the banishment, the community should work to actively reincorporate the individual. Permanent banishment is certainly a simpler solution from the perspective of the village being harmed, but it fails to follow the contours of tradition. These principles apply to both Native and non-Native banishments.

Additionally, banishment should only be used when all other avenues have failed. Banishment is a harsh punishment that can separate an individual from their community, family, and livelihood. Its benefits outweigh its harms only when less harsh alternatives have already failed. This means that expanded tribal jurisdiction allowing banishment of non-Natives for drug and alcohol offenses should also provide for lesser sentences including fines and community service. Only when these strategies have proven ineffective is escalation to banishment appropriate.

Lastly, the State of Alaska should work with tribal courts to expand tribal jurisdiction to cover non-Native drug and alcohol offenses and to facilitate banishment in the limited circumstances discussed above. Alaska has a history of opposing tribal recognition, tribal sovereignty, and tribal court jurisdiction.¹⁶⁹ While the State of Alaska cannot implement these reforms without congressional action, the state can certainly slow down or prevent implementation as it did with VAWA.¹⁷⁰ Alaska needs to recognize the potential benefits of expanded tribal jurisdiction and banishment and should work with tribes to convince Congress to provide these powers. The State of Alaska should then help tribes implement due process protections in tribal courts, publish tribal laws, and enforce the limited banishment orders discussed above.

168. See *supra* Section II(D).

169. See *Federal Recognition of Alaska Tribes*, *supra* note 39 (stating that several Alaska governors have acted to diminish tribal sovereignty and jurisdiction).

170. Shannyn Moore, *VAWA Not a Victory for Alaskan Native Women*, HUFFINGTON POST (Mar. 12, 2013), https://www.huffingtonpost.com/shannyn-moore/vawa-native-women_b_2856326.html (claiming that Alaska state officials actively attempt to stop tribes from asserting jurisdiction over various issues).

IV. CONCLUSION

Alaska Native tribal courts currently lack the power to banish non-Natives from their communities for drug and alcohol offenses. Tribal courts do have subject matter jurisdiction over cases involving sale and possession of drugs, alcohol possession, and bootlegging, but they lack personal jurisdiction over non-Natives. The absence of substantial Indian country in Alaska means that tribes are unable to claim land-based jurisdiction and must rely almost exclusively on membership-based jurisdiction. This significantly limits tribal jurisdiction over non-Natives, meaning that tribes cannot punish non-Native violators of alcohol and drug laws.

Congress should expand tribal jurisdiction to cover non-Native violators of these laws because of the significant alcohol and drug abuse issues in rural Alaska Native communities. This expanded jurisdiction should include the power to banish non-Native violators in limited circumstances—when all other options have failed, for a limited banishment period, and with the intention of rehabilitating and reintegrating the offender. The State of Alaska should facilitate this Congressional expansion of jurisdiction and power to banish non-Natives in order to address issues of rural access to justice and alcohol and drug abuse in rural communities.

Jail Deaths Highlight Ongoing Rural Alaska Safety Issues

A spokeswoman for an Alaska regional tribal consortium says the recent deaths of three people at village jails underscores ongoing public safety problems in rural parts of the state.

By Associated Press, Wire Service Content May 15, 2019



In this 2018 photo provided by the Association of Village Council Presidents is the public safety building in Napakiak, Alaska. A fire April 28, 2019, killed two detainees and severely injured two guards in the village of Napakiak. A spokeswoman for an Alaska regional tribal consortium says the recent deaths of three people at village jails underscores ongoing public safety problems in rural parts of the state. The Association of Village Council Presidents last summer surveyed public safety departments and jails and found many rural jails in need of repair. (Association of Village Council Presidents via AP)  THE ASSOCIATED PRESS

BY DAN JOLING, Associated Press

ANCHORAGE, Alaska (AP) — The deaths of three people in two weeks at western Alaska jails underscore a perennial problem that rural officials have attempted to address: a lack of public safety personnel and facilities in villages.

The Association of Village Council Presidents, a regional tribal consortium made up of 56 federally recognized tribes of the Yukon-Kuskokwim Delta, surveyed facilities last summer and found a lack of infrastructure.

Some village public safety buildings lack heat or plumbing. Fire codes do not require sprinkler systems and the state fire marshal's office does not routinely inspect them.

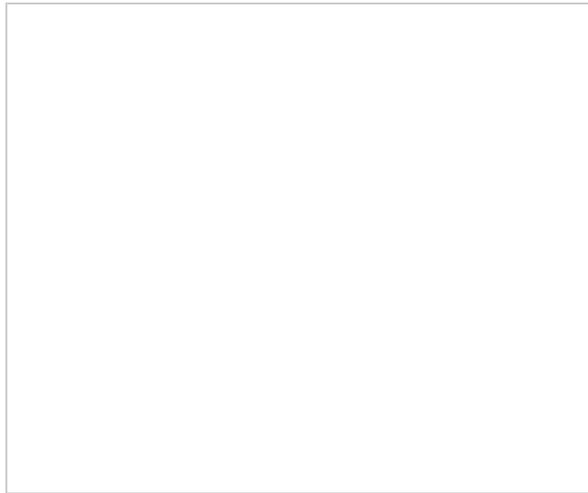
Becca White, 24, and Isaiah Parka, 22, died April 28 in a fire that burned down the village jail in Napakiak, a community 15 miles (24 kilometers) southwest of Bethel. Two guards were seriously injured trying to save them. The state fire marshal and Alaska State Troopers are investigating the cause of the fire.

The state fire marshal's office reviews building plans for rural jails, said State Fire Marshal Richard Boothby, and make sure they comply with the International Building Code. However, buildings with fewer than six cells fall into the same category as office buildings in Anchorage, he said.

There are no routine inspections by the fire marshal's five inspectors. The code would not require sprinklers systems unless there were other considerations such as 500 or more occupants and multiple stories. Rural jails typically are part of public safety buildings that are 1,000 square feet (93 sq. meters) or fewer, Boothby said.

"With that said, we are in those buildings on and off because they're public safety buildings," Boothby said.

The AVCP assessment of the Napakiak jail showed a one-story, weathered wood building on pilings, which allow ground with permafrost to stay frozen and immobile. The 2018 assessment listed a window, door lock and exterior stairs in need of repair.



Robert Nick, 54, died Friday in a jail in Akiachak, a village of 600 about 18 miles (29 kilometers) northeast of Bethel.

A tribal officer took Nick into protective custody Friday because he was severely intoxicated and he died that night. An autopsy was ordered and Alaska State Troopers are reviewing the circumstances of Nick's death. Calls to officers in Akiachak were not returned Monday and Tuesday.

The jail is operated by the Akiachak Native Community.

Unlike in Anchorage and other major Alaska cities, the state Department of Corrections does not oversee jails in villages.

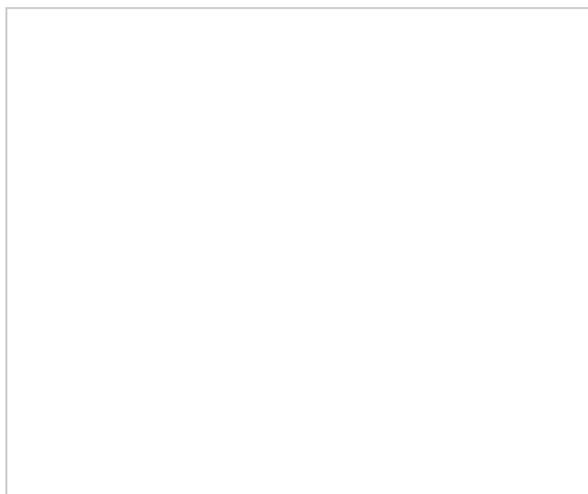
People held by tribal or village police are not the state's responsibility, said Megan Peters, spokeswoman for the Alaska State Troopers.

"If a local agency makes an arrest and houses the arrestee in a community jail, they are not wards of the state," Peters said by email. "They do not become wards of the state unless they are transferred to one of the facilities that are operated by the state."

As for oversight of rural jails, and the training of personnel who oversee detainees, and police officers hired by tribes or village governments, state officials take a mostly hands-off approach.

As of last summer, 88 percent of the communities within the Association of Village Council Presidents do not a village public safety officer trained at the state academy, said director of communications Azara Mohammadi.

Alaska State Troopers respond to state crimes but the response time varies depending on the severity of the circumstances, she said. Homicides or people with weapons draw a faster response – if weather permits troopers to fly.



Public safety has been identified as the No. 1 priority for the AVCP, Mohammadi said.

"We've been doing all this kind of work just so we can show and capture a baseline of what public safety looks like in western Alaska," Mohammadi said.

Many of the villages, and the main hub community, Bethel, are encompassed by the Yukon Delta Wildlife Refuge, which covers more than 3,045 square miles (7886 sq. kilometers). The National Park Service describes it as vast, flat wetlands and tundra interspersed by countless ponds, lakes and meandering rivers.

None of the villages are on the state road system. People travel between villages by airplane or boat, or in the winter, by snowmobile.

State troopers in Bethel on Friday took a boat up the Kuskokwim River to reach Akiachak.

The villages don't have a strong tax base that can support public safety.

"A lot of the economies out here are a mixture of the subsistence economy and the monetary economy," Mohammadi said.

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Tags: Alaska



Domestic Assault In Kalskag Results In Village Lockdown

By [GREG KIM \(/PEOPLE/GREG-KIM\)](#) • MAY 23, 2019

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Kalskag went into lockdown Tuesday morning. Schools and stores in both Upper and Lower Kalskag shut their doors, and people were told to stay inside. This followed a domestic violence incident in Upper Kalskag.

Ray Steeves, a 35-year old man from Upper Kalskag, assaulted someone in his home. Alaska State Troopers were called, but Steeves fled before they could get there. That was when the lockdown began.

The lockdown ended at 10:00 a.m. on Wednesday, May 22, but state troopers are still in pursuit of Steeves. They last saw him just outside of town. The victim of the assault has been transported out of Kalskag for treatment of non-life threatening injuries.

Upper Kalskag lacks any kind of police presence, and Lower Kalskag has only one tribal police officer. However, that officer was out of town during this incident.

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LAWLESS

At least one in three Alaska villages has no local law enforcement. Sexual abuse runs rampant, public safety resources are scarce, and Gov. Mike Dunleavy wants to cut the budget.

By Kyle Hopkins, Anchorage Daily News

May 16, 2019

This article was produced in partnership with the Anchorage Daily News, a member of the ProPublica Local Reporting Network.

KIANA, ALASKA — Village Police Officer Annie Reed heard her VHF radio crackle to life in the spring of 2018 with the familiar voice of an elder. I need help at my house, the woman said.

Reed, who doesn't wear a uniform because everyone in this Arctic Circle village of 421 can spot her ambling gait and bell of salt-and-pepper hair at a distance, steered her four-wheeler across town. There had been a home invasion, she learned. One of the local sex offenders, who outnumber

Reed 7-to-1, had pried open a window and crawled inside, she said. The man then tore th

from the elder's daughter, who had been sleeping, gripped her throat and raped her, according to the charges filed against him in state court.

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Reed, a 49-year-old grandmother, was the only cop in the village. She carried no gun and, after five years on the job, had received a total of three weeks of law enforcement training. She had no backup. Even when the fitful weather allows, the Alaska State Troopers, the statewide police force that travels to villages to make felony arrests, are a half-hour flight away.

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It's moments like these when Reed thinks about quitting. If she does, Kiana could become the latest Alaska village asked to survive with no local police protection of any kind.

An investigation by the Anchorage Daily News and ProPublica has found one in three communities in Alaska has no local law enforcement. No state troopers to stop an active shooter, no village police officers to break up family fights, not even untrained city or tribal cops to patrol the streets. Almost all of the communities are primarily Alaska Native.

Seventy of these unprotected villages are large enough to have both a school and a post office. Many are in regions with some of the highest rates of poverty, sexual assault and suicide in the United States. Most can be reached only by plane, boat, all-terrain vehicle or snowmobile. That means, unlike most anywhere else in the United States, emergency help is hours or even days away.

When a village police officer helps in a sex crime investigation by documenting evidence, securing the crime scene and conducting interviews, the case is more likely to be prosecuted, the University of Alaska Anchorage Justice Center concluded in 2018. Yet communities with no first responders of any kind can be found along the salmon-filled rivers of Western Alaska, the pancake tundra of the northwest Arctic and the icy rainforests in the southeast panhandle.

The state recognizes that most villages can't afford their own police force and has a special class of law enforcement, called village public safety officers, to help. But it's not working. In the 60 years since Alaska became a state, some Alaska Native leaders say, a string of governors and Legislatures have failed to protect indigenous communities by creating an unconstitutional, two-tiered criminal justice system that leaves villagers unprotected compared with their mostly white counterparts in the cities and suburbs.

ProPublica and the Daily News asked more than 560 traditional councils, tribal corporations and city governments representing 233 communities if they employ peace officers of any sort. It is the most comprehensive investigation of its kind in Alaska.

Here is what we learned:

- Tribal and city leaders in several villages said they lack jail space and police stations. At least five villages reported housing shortages that prevent them from providing potential police hires with a place to live, a practical necessity in some regions for obtaining state-funded VPSOs. In other villages, burnout and low pay, with some village police earning as little as \$10 an hour, lead to constant turnover among law enforcement.
- In villages that do have police, more than 20 have hired officers with criminal records that violate state standards for village police officers over the past two years. They say that's better than no police at all. Our review identified at least two registered sex offenders working this year as Alaska policemen.
- Alaska communities that have no cops and cannot be reached by road have nearly four times as many sex offenders, per capita, than the national average.

The lack of local police and public safety infrastructure routinely leaves residents to fend for themselves. The mayor of the Yukon River village of Russian Mission said that within the past couple years, residents duct-taped a man who had been firing a gun within the village and waited for troopers to arrive. In nearby Marshall, villagers locked their doors last year until a man who was threatening to shoot people had fallen asleep, then grabbed him and tied him up. In Kivalina, a February burglary closed the post office for a week because the village had no police officer to investigate. Elsewhere, tribes mete out banishment for serious crimes from meth dealing to arson.



Kiana in March. All-terrain vehicles and snowmobiles are the most common form of motorized transportation in the village, which has no paved roads. Loren Holmes, Anchorage Daily News

“There’s no one you can call and go, ‘Oh hey, my neighbor is going crazy right now,’” said Kristen George, tribal administrator for the Bristol Bay town of Clark’s Point, which balloons from 55 people to several hundred during the commercial fishing season.

If someone started shooting, George said, “they could probably wipe us out before troopers came.”

Many of the unprotected villages are in western Alaska, where sex crime rates are double the statewide average. (Alaska’s statewide rate, in turn, is nearly three times the U.S. average.) Rape survivors, as in the Kiana home invasion case, are told not to shower and must fly to hub cities or even hundreds of miles to Anchorage to undergo a sexual assault examination.

The problem is getting worse. Our investigation found the number of police provided through the state Village Public Safety Officer Program is at or near an all-time low; the few who remain are often unhappy and overextended.

When the lone VPSO in the northwest Arctic village of Ambler investigated a domestic violence call in April, for example, he said he was attacked by two people in the home who each

grabbed one of his arms. In a subsequent report, he described it as one of the scariest moments of his life as he struggled to break free and grab a can of pepper spray.

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“I was unable to get any assistance as I am the only law enforcement officer in this village within about a 100 square mile radius,” he wrote.

Rather than raise pay or boost recruitment, Gov. Mike Dunleavy this year proposed a state budget that would cut \$3 million in funding for vacant village-based police officer jobs. The reductions are a small part of a proposed \$1.8 billion reduction in state spending as cash-strapped Alaska struggles to live within its means while avoiding an income tax and continuing to pay annual Permanent Fund dividend checks to all eligible residents.

Dunleavy, a Republican, campaigned on promoting public safety, but he also promised Alaskans that they wouldn't have to give up the annual oil wealth checks, and that those checks might increase. Under his proposed budget, each Alaskan would receive a more than \$4,000 payment in October, the largest ever. (State lawmakers are working on a competing spending plan with fewer cuts, which would maintain VPSO funding at current levels and provide potentially smaller dividends.) Dunleavy has said growth in state spending is the problem, not annual checks to residents.

Whether each Alaskan also receives basic public safety protection — the ability to dial 911 and have a police officer or trooper show up at the door — depends largely on whether they live in cities like Anchorage and Fairbanks, or off the road system.

Martha Whitman-Kassock, who oversees self-governance programs for the Bethel-based Association of Village Council Presidents, grew up in rural Alaska and said the state appears to have no strategy for adding cops in villages.

“Public safety infrastructure and service in our region is a crisis,” she said.

A Fight Over Public Safety Funding



The Kobuk River west of Kiana in March. The river is an important transportation route for five villages in Northwest Alaska. Loren Holmes, Anchorage Daily News

ALASKA IS THE SIZE of Texas plus California plus both Carolinas, Florida and Maine. Purchased from Russia in 1867, the frontier attracted a flood of gold miners and church missionaries. The newcomers brought Western diseases — diphtheria and influenza, smallpox and tuberculosis — killing thousands of Alaska Natives. The missionaries built churches and, soon, boarding schools. So many village children were sexually abused by priests that a class-action lawsuit bankrupted the Fairbanks Diocese.

Lost in the talk of how best to spend Alaska's dwindling revenue is an unanswered question: Did the state ever meet its public safety obligations to villagers?

Alaska's state government settled a 1997 lawsuit demanding equitable funding for village schools after a judge called the state spending system "arbitrary, inadequate and racially discriminatory." Alaska Native rights advocates contend that funding of public safety remains unfair.

In 1999, the Native American Rights Fund sued the state on behalf of 10 Alaska Native villages, including Kiana and Clark's Point, calling the absence of police in remote communities racist and

unconstitutional. The villages claimed that the state had violated Alaska Natives' equal rights under the 14th Amendment of the U.S. Constitution by both opposing tribal courts' authority to oversee criminal justice through traditional means while at the same time failing to provide armed police.

The Alaska Supreme Court upheld rulings against the villages in 2005, saying the lack of certified village cops could be explained by "financial and geographical constraints" rather than racial bias or purposeful neglect.

Early Alaska legislatures and state police saw the crisis coming.

In 1979, the state created the Village Public Safety Officer Program to place lifesaving peacekeepers in remote communities. The commander of the Alaska State Troopers at the time, Col. Tom Anderson, said the program was intended to "address some of the most serious, life-threatening problems of rural villages," where accidental death rates are highest, by training officers to be firefighters and emergency medics as well as cops.

The number of these VPSOs, unarmed peace officers paid for with state funds but employed by regional nonprofits and boroughs, has plummeted from more than 100 in 2012 to 42 today. In some cases, promising VPSO recruits accept higher-paying offers in urban police departments or private security, leaving villages without their local officer.

Troopers' ranks, too, have dwindled. Citing "critically low staffing levels," the Alaska Department of Public Safety closed eight trooper posts between 2015 and 2018. Five years ago, the state employed 333 troopers statewide. At the end of last year, that number had shrunk to 293.

Law Enforcement on the Cheap

OUTSIDE KIANA CITY HALL, ravens pinwheeled above the trees on a weekday afternoon in March. A breeze carried snowmobile exhaust and wood smoke above newly built homes on stilts in the upper village down to old-town log cabins.

Inside the city building, council members in Carhartts and snow pants held their monthly meeting. For 90 minutes they shared powdered doughnuts and talked about utility rates, until it was time for Annie Reed to give a public safety report.

There had been several assaults over the past two weeks, said Reed, the village police officer who investigated the home invasion rape. “I was sick, so I didn’t do so much rounds. About 300 calls.”

When a village has no VPSO and no trooper, the only remaining option is an officer like Reed, hired by the local city government or tribe. Called village police officers or tribal police officers, they receive no benefits and are the lowest-paid and least-trained form of law enforcement in Alaska.

Reed makes about \$20 an hour in a village where groceries cost twice Anchorage prices. These kinds of officers often find themselves performing tasks intended for armed, fully trained police. Reed thought she was going to be enforcing city ordinances like curfew and stopping underage drivers, not refereeing armed fights.



Katelynn Reed, 22, with her son Abram Reed-Jordan, then 7 months, in her family's home. Behind is her father, Jack Reed. Katelynn's mother, Annie Reed, is often the town's only cop. Loren Holmes, Anchorage Daily News

When people in Kiana need help they don’t dial 911, which would ring through to the Kotzebue Police Department nearly 60 miles away. They call Reed’s cellphone directly. The problems range from barking dogs to suicides to domestic brawls. She is never off duty.

“I have to drop my cooking and go. Or if my [grandkids] are getting ready to go to bed there to say good night to them,” Reed said.

Suicides are worst. Calls involving domestic violence are common.

In Kiana, a series of trails and unpaved roads connect the neighborhoods, spilling onto the frozen rivers below. On one corner, a man with a mop of wild hair sat in his living room talking about the time he called Reed for help when his adult son began kicking him in the ribs. The man’s wife, left eye bruised, sat crying, saying she wished the local liquor store would close for the sake of Kiana’s children. The parents snapped at each other. As they argued, their daughter became angry. Why was everyone sharing family business, she asked?

The father leaped to his feet and pushed her across the living room. The young woman silently caught herself and slumped on the couch, her eyes returning to the TV.

“I don’t do meth,” her father said, although no one had asked.

A current VPSO, who asked not to be named and is not based in Kiana, said opening the door on one of these family fights is the most frightening task facing any solo Alaska peace officer.

“The No. 1 most dangerous call you could ever go to is a domestic violence call. Hands down,” the VPSO said. “So we are doing the most dangerous call that there is on a consistent basis, by ourselves with no backup [and] no communication with dispatch other than a cellphone and no way to defend yourself.”

While state law allows for communities to arm VPSOs and even city-hired village police officers like Reed, the director of the Alaska Police Standards Council said he is not aware of any employers that do so, partly because it could make insurance liability rates skyrocket for small communities.

In Savoonga, a Bering Sea island community closer to Russia than to mainland

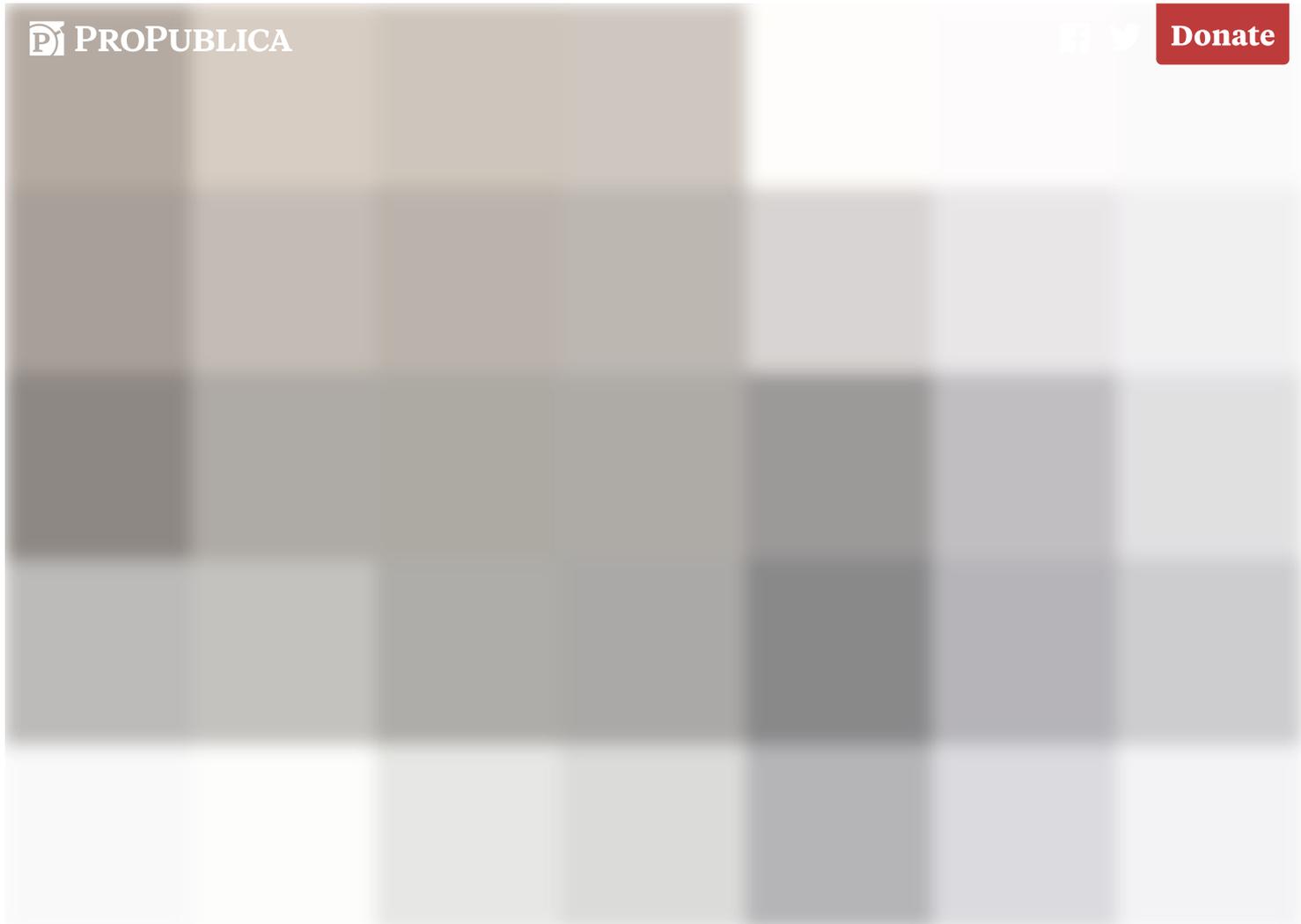
Alaska, the police officer Michael Wongittilin, said that the first time he put on his uniform, a man aimed a shotgun at him. “About 92% of this community have high-powered rifles,” he said. “We don’t even have [bulletproof] vests. We don’t even have Tasers.”

Reed said she’s never been shot at and tries to talk her way out of any scary encounters. She began working as a cop about five years ago when a family member said the job would suit her. “She said I was a strong and outgoing person.”

Reed’s home is a warm cocoon in the upper village, where an ebony finger of baleen, the broom-length filtration system from the mouth of a bowhead whale, hangs on the wall above a tornado of small children and small dogs. The whale hunt souvenir is one of the only signs that Kiana, an upriver village, is Reed’s

Reed at the Kiana city office building in March. Loren Holmes, Anchorage Daily News

adopted hometown. She is originally from Utqiagvik, the northernmost city in the United States, where whaling is a seasonal rite.



From left, Amber Reed, Pauline Gooden and Clara Stein smoke outside the city office building in Kiana. Stein was taking a break from her job working at the city office. Loren Holmes, Anchorage Daily News

Family ties between police, crime victims and offenders are impossible to avoid in villages of a few hundred people. Many officers said those inherent conflicts make the job less appealing to potential applicants.

A quick walk from Reed's house, Franswa Henry, 40, stepped into the blowing snow with his hands in his pockets. His breath steamed in the cold, his teeth clenched. Two bounding white puppies circled his feet.

Henry said he's on probation and recently got out of jail in Nome, where someone broke his jaw. He was there serving time on an assault charge that Reed had investigated.

"I had a shotgun pulled on me. You know, I grabbed an ax," Henry said. It was a messy family dispute between stepbrothers in January, with kids inside the home. Hours before a state trooper was able to get to the village, Reed arrived and took statements. Kotzebue prosecutors filed charges and Henry turned himself in a few days later, pleading guilty to fourth-degree assault. But he said Reed can't possibly be impartial — the kids in the house were her grandchildren.

She said arresting neighbors is never easy.

“I still have a few friends out there and a few families that still talk to me,” she said. “It’s hard when you have to arrest somebody and they’ll start hating you for a while.”

Henry noted that Reed, like many village police officers, has a rap sheet of her own. She pleaded guilty to a harassment charge in 2016 and to misdemeanor assault in 2012. Both cases involved fights with family members, a record that would prevent her from working as a police officer in Anchorage or other large departments. (Reed described the cases as minor events that do not interfere with her work. She otherwise declined to comment on them. “It’s the past,” she said.)

Under state law, village police officers are not supposed to have felony records but misdemeanors can be considered on a case-by-case basis. Alaska Police Standards Council Executive Director Bob Griffiths said domestic violence convictions of any kind usually disqualify someone from receiving state approval to be a village officer.

But village police officers with criminal records are routinely hired without a background check because village leaders do not inform the state of new hires, and the regulation requiring them to do so has no teeth, Griffiths said.

“There’s Not Anybody There Looking”

Not everyone wants more big-city style, badge-and-gun policing in Alaska villages. Often, city and tribal leaders seek a mix of traditional peacekeeping and modern law enforcement.

The lakeside fishing community of Igiugig has requested a VPSO for years, said AlexAnna Salmon, village council president, but it has not received one. “The tribe just takes matters into our own hands when there are issues.”

“Severe troublemakers are banished. We usually purchase them a ticket out of Igiugig and then ask airlines to put them on a no-fly list,” she said of the Alaska Peninsula community.

About 140 miles to the east, in the Alutiiq village of Nanwalek, the chief of the traditional council has kicked a meth dealer out of town for good, a form of banishment known in Alaska as a “blue ticket.” “Basically the council has been able to handle a lot on their own without support from law enforcement,” tribal administrator Gwen Kvasnikoff said.

In the meantime, Alaska’s congressional delegation has attempted to hand more federal money, and more authority, to tribal courts. A pilot program proposed by Rep. Don Young, a

Republican, would give special criminal jurisdiction to five Alaska tribal governments in the Violence Against Women Act.

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Franswa Henry recently got out of jail in Nome. He'd been arrested on, and later pleaded guilty to, a domestic violence assault charge. Reed investigated the incident, but Henry said she can't be impartial — the kids in the house were her grandchildren. Loren Holmes, Anchorage Daily News

Sen. Lisa Murkowski, a Republican who has pursued federal funding for village tribal courts, recently called on U.S. Attorney General William Barr to visit Alaska villages to see the public safety problems firsthand.

But there's a big difference between the court system and on-the-ground police, Murkowski said when informed by the Anchorage Daily News of how many Alaska communities have no police whatsoever.

“If we don’t have the law enforcement in the first place, it’s really hard,” Murl’ows’i
“People know that there’s not anybody there looking. It makes it easier to be the perpetrator.

Research suggests that factors such as self determination, the presence of prominent traditional elders and employment opportunities — rather than more police — are the key to reducing suicide, alcohol abuse and other problems that have troubled many Alaska villages. But dozens of village and tribal leaders told the Anchorage Daily News and ProPublica they want and need police protection.

“When I’m here by myself and somebody comes pounding on my door and wants to beat the living daylights out of me, it would have been nice to have a VPSO in that next office,” said Mary Willis, tribal president for the Kuskokwim River village of Stony River.

In Wales, where a judge recently ordered the school district to pay \$12.6 million after an employee sexually abused multiple girls, City Clerk Gerald Oxereok said the village hasn’t had any law enforcement for 20 years. On the shores of the Bering Strait, the whaling town is the westernmost city in mainland North America.



*Alaska struggles to provide a consistent local law enforcement presence in Kiana, which sits along the Kobuk River, left.
Loren Holmes, Anchorage Daily News*

“Nobody has been applying for it,” Oxereok said of the vacant VPSO job. Some locals might want the work don’t meet minimum requirements such as a high school diploma. Or they smoke pot or have a felony record, both of which are disqualifying.

When a screaming man broke the door to the tribal office in Kokhanok, a village on the shores of Iliamna Lake with 168 people and no police, tribe employee Lysa Lacson said she was forced to evacuate the building.

Troopers arrived three days later.

That was in December, Lacson said. The tribe told local airlines that the man was forbidden from flying back to Kokhanok. But that doesn’t always work. Sometimes the banished fly in to a different village and boat home, she said.

“We’re not trained in responding to those things,” Lacson said.

On the same day that Annie Reed investigated the home invasion rape case, a man attacked three people with a butcher knife in the Yup’ik fishing village of Kotlik some 280 miles to the south. Troopers say the suspect appeared at a schoolhouse vowing to kill the principal, who in turn warned villagers of the attack over VHF radios. The custodian locked the school doors and teachers herded students into the gymnasium and lunchroom, where adults stood guard at entrances.

Kotlik tribal administrator Pauline Okitkun said the town sometimes has village police officers, depending on funding. There was a young woman employed as one at the time, she said, but the call was too dangerous for her to handle unarmed and alone.

The man stabbed three people, including one who struck his arm with a piece of rebar to try and knock free the 8-inch knife, according to charges filed against him. The suspect also stabbed his sister in the stomach, but she was able to snatch the weapon away, according to the charges. Villagers held him in a cell until troopers arrived by plane more than two hours after the attack and school lockdown began. A Bethel judge ordered a competency evaluation for the suspect, who is awaiting trial and, according to the court clerk, has not entered a plea.

Airplanes at the Kiana airport in March. Only about 14% of Alaska villages and cities can be reached by road, leaving many Alaskans reliant on boats or single-engine planes, which are often grounded when the weather is bad. Loren Holmes, Anchorage Daily News

Kotlik, near the mouth of the Yukon River, is in Western Alaska, an area with the highest rate of reported sex crimes in the state. Leaders from 56 tribes in the region have listed public safety as their top concern in each of the past two years, according to the regional nonprofit, the Association of Village Council Presidents.

The council visited 45 communities in Western Alaska in 2018 to photograph dilapidated public safety buildings and count police officers. The [resulting report](#) found that eight villages had no jail cells of any kind. In others, if there were local police, the officers worked in headquarters with boarded doors, broken windows or no indoor plumbing. In one of those buildings, [two inmates burned to death on April 28](#) while locked in their cells. The council researchers had flagged problems with the window, door lock and stairs months earlier.

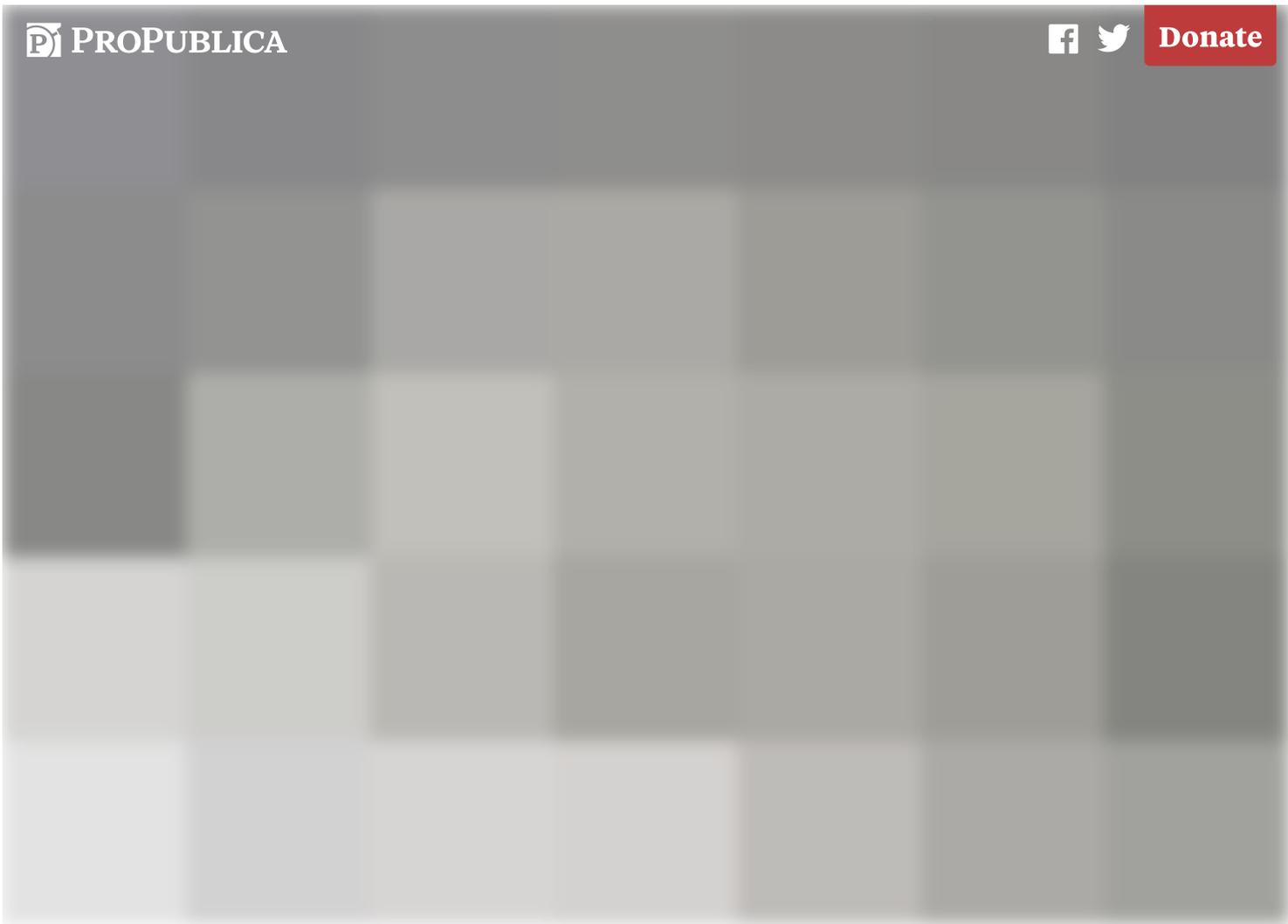
“The idea that there are places in the United States, a first-world country, that do not have public safety ... a basic human right, was horrifying to me,” said Azara Mohammadi, a council employee who worked on the survey.

In one of the larger surveyed communities, Mountain Village, population 804, the n found only one village police officer remains after another officer had been charged with stealing from the scene of a homicide. The Yukon River village's public safety problems continued on a Friday afternoon in March, when the Mountain Village officer arrested a man accused of raping two people and took him to a jail cell housed within the steeped city office.

When an Alaska state trooper arrived the next afternoon, he discovered the jail empty and no guard on duty. The 19-year-old suspect had escaped overnight. By the time the trooper found and arrested him, he'd been missing for 16 hours. He has pleaded not guilty on charges of sexual assault, giving alcohol to a minor and felony escape.



Two Classes of Alaskans



A building in Kiana's old town. Inupiat people have occupied the site at the confluence of the Kobuk and Squirrel rivers since at least the late 1700s, according to archaeological investigations conducted by Brown University. Loren Holmes, Anchorage Daily News

OIL TAXES, and savings accounts that were built upon oil taxes, pay the bills in Alaska. But even in times of plenty, when 2 million barrels were flowing through the trans-Alaska oil pipeline every day or when North Slope crude prices skyrocketed, the state has struggled to provide core services to villages.

Today, thousands of rural homes in 29 villages still lack running water and flush toilets, according to the state Village Safe Water Program. The road system reaches only about one out of every five communities.

Unapologetic in directing billions in federal spending to Alaska, the late Sen. Ted Stevens argued the young state's isolation and the unique needs of Alaska villages demanded heavy government investment. At the height of his funding powers as chair of the Senate Appropriations Committee, Stevens backfilled the VPSO program with \$1.5 million in federal funding when the state cut spending on those officers in 2003.

Dunleavy, who was elected governor last year and subsequently declared a “war on crime” has proposed a spending plan that includes defunding vacant village police officer jobs while funding trooper recruitment. But troopers don’t just serve villages, they respond to crimes in highly populated areas on the road system — including much of the fast-growing Matanuska-Susitna Borough that Dunleavy and former Alaska Gov. Sarah Palin call home.

Dunleavy said the cuts to the VPSO program reflect the decreasing number of village officers. (Saying the program is now “plagued with high turnover and poor retention,” the Alaska Legislature this month announced the creation of a working group that will attempt to rebuild it.)

“The drop in VPSOs employed occurred despite pay increases, retention bonuses and approved funding for equipment and office improvements,” Dunleavy spokesman Matt Shuckerow said. “As a result, Gov. Dunleavy’s budget proposal aligns funding and historic expenditures within the VPSO program.”

Annie Reed on being a Village Police Officer



Ely Cyrus on public safety in rural Alaska



Nadia Sussman, ProPublica

Shuckerow said that starting pay for VPSOs has increased from \$16.55 an hour in 2008 to \$26.79 today. That amounts to about \$56,000 a year, wages that VPSOs say is still woefully low given they receive nearly identical training to Kotzebue-based troopers who make three times as much.

Sen. Lyman Hoffman, D-Bethel, warned that the spending plan creates two classes of Alaskans when it comes to public safety protection.

“If you were living in that community for a year and we had someone going out and shooting up the place and you did not have an officer to go to talk to, I think you would feel as unsafe as they do,” Hoffman told the state budget director in January.

As rural Alaskans learned of the proposed cuts, Kiana city manager Ely Cyrus received an email from the head of the VPSO program in his region.

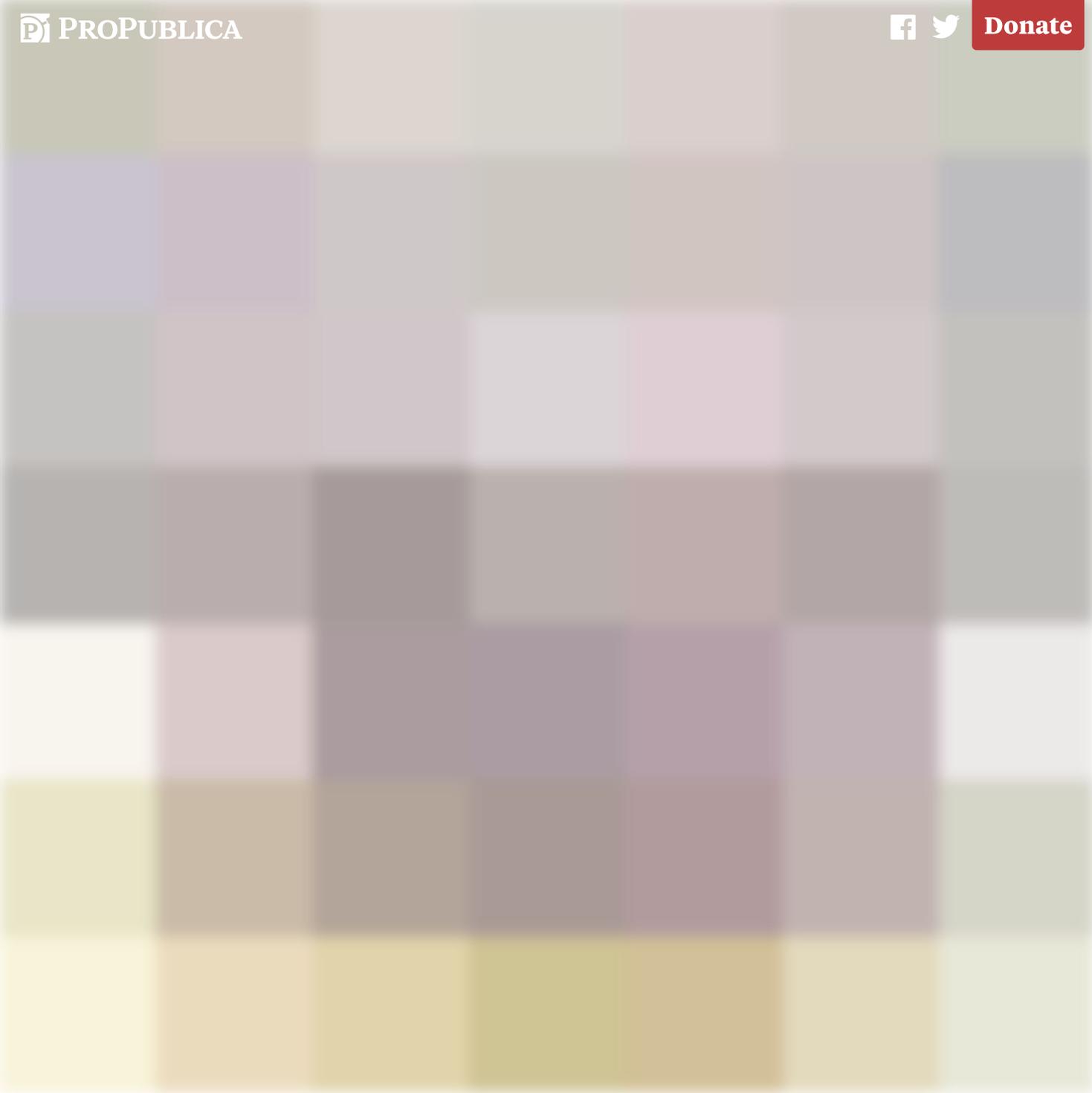
“Ely, just an FYI at this point in time we will not be hiring a new VPSO for Kiana,” it read, referring to the state-funded police officer job that offers higher pay and requires more training than Annie Reed’s role as a city cop. “The state is withdrawing funding for three positions in order to help provide the money to give the Alaska state troopers a 7.5 percent raise.”

Cyrus, who sometimes moonlights as a snowplow operator, gave a tour of the village public safety building with its two jail cells and a stack of paperbacks for the guards. Next door sat a mud-flecked home, housing for the VPSO, for the sporadic times there is one. Plywood covered the shattered living room windows.

WHEN A HOME INVASION rape occurs in Alaska’s largest city, the Anchorage Police Department sends patrol cars with sirens blaring, Deputy Chief Ken McCoy said. One uniformed officer makes sure the victim is safe while others search for the suspect. Paramedics appear. A detective from one of two special sex crime units joins a victim’s advocate and a nurse to begin the investigation and rape kit exam. Back at the crime scene, an officer stands guard to preserve evidence.

Two plane rides and several hours away, above the Arctic Circle, all the village of Kiana had on the night of the home invasion rape was Annie Reed.

When she arrived at the scene, she said, it was too late to find an overnight safe house for the victim. The suspect, 42-year-old [Edmond Morris](#), had a history of rape, pleading guilty to sexual assault in 2016. While in Kotzebue in 2017, he broke into the home of a legally blind woman who lives alone, according to charges filed against him. The woman hid in the bathroom to call police. Morris had spent the past 15 years in and out of jail before returning to Kiana.



Children play musical chairs during a celebration of life event at the Kiana school. The event was organized in response to two recent suicides in the region. Officials were worried that deaths might ignite one of the “clusters” of suicides that sometimes plague this part of the state. Loren Holmes, Anchorage Daily News

“Holy crap,” Trooper Anne Sears said she thought. Sears looked up Morris’ criminal record after learning of the alleged attack from Reed and investigated the case. “Everything he’s done. He’s done it before. Even his other cases were leading up to something similar.”

Reed said that when she asked the man to leave, he lingered around the home. With nowhere else to go and the midnight sun about to set, Reed took the woman to spend the night in her own

home. (“Annie is freaking awesome,” said Sears, a longtime state trooper. “Kiana is lucky her.”)

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One of Reed’s daughters fixed the woman a cot to sleep on in the living room, beneath the baleen and dreamcatchers. Another daughter traveled with the victim the next day to Kotzebue, but because there was no nurse available that day to begin a sexual assault exam, the victim flew another 550 miles to speak with city detectives in Anchorage. Her neck and wrists bruised, the young woman carried the gym shorts and ripped tank top she was wearing during the attack as evidence in a plastic bag.

It took three weeks for troopers to complete an investigation and arrive in Kiana to arrest Morris. During that time, he returned to the home where the attack occurred several times to ask if the family planned to press charges, prosecutors allege. He faces charges of sexual assault, assault and criminal trespassing.

In a phone interview from the Nome jail, Morris said he did not attack the victim and said she let him in the window. When the victim’s mother told him to get out of the house, he did, he said.

Morris is awaiting trial with a hearing scheduled for July. The window that Morris is accused of breaking open in order to commit the sexual assault is now covered with plywood, adorned with smiling hunting photos torn from a calendar. Dents still tattoo the front door, but that happened later.

The young woman, after returning to Kiana, took an ax to the doorknob. She’d been drinking and tried to break down the door after an argument with her mom. When that didn’t work, she climbed through the same window that, according to troopers, her rapist had pried open. She was later found sitting in the living room, sobbing.

Her mother doesn’t know exactly where she is now. Probably Anchorage. They talk on the phone sometimes, but never about that night, the mother said. “She just keep it inside her.”



A boarded-up window at a home in Kiana. Last year, according to charges filed in state court, a man broke through this window and raped a woman. The victim had to fly to Anchorage for testing, and it took three weeks before the suspect was arrested. During that time, he returned to the house multiple times asking if the family planned on pressing charges, according to troopers. Loren Holmes, Anchorage Daily News

Reed, in the meantime, has a decision to make. A troopers sergeant in Kotzebue said she is among the most reliable of the village police officers in the region. But after fielding hundreds of calls in a recent month, and deaths in the family, she has started looking for a job with days off. Or at least benefits.

“I’m tired,” she said.

A long sigh.

“I’m overwhelmed.”

As the anniversary of the home invasion rape approached, something unexpected happened. The VPSO who said he was attacked during a domestic violence call in the village of Ambler, 70 miles upriver, was reassigned by the borough. On April 30, he showed up in Kiana, the city manager said. Backup for Annie Reed.

But the move had a downside: It made Ambler, population 287, the 70th village in Alaska to have no police of any kind at some point this year. ■

ProPublica and the Anchorage Daily News are spending the year investigating sexual violence in urban and rural Alaska. Here's how you can stay in touch with us:

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- Get [email updates](#).
- Share your story in our [questionnaire](#).
- Reach out to the reporting team anytime: alaska@propublica.org

In partnership with Maniilaq Association, a tribally operated health and social services organization, Anchorage Daily News and ProPublica are hosting a community forum in Kotzebue, Alaska. “Breaking the Silence: Stopping Sexual Assault in Alaska” — on June 6 at 6 p.m. at the Kotzebue Recreation Center — will bring together community leaders, public officials, journalists and advocates to discuss ending sexual violence and child abuse through public education, survivor support and policy. Learn more at bit.ly/kotzalaska.

[Kyle Hopkins](#) is an investigative reporter and special projects editor for the Anchorage Daily News. He has covered politics, rural affairs and general assignments in Alaska for 15 years and is a recipient of the 2018 Investigative Reporters & Editors Award for small-market reporting. Email him at khopkins@adn.com and follow him on Twitter at [@kylehopkinsAK](https://twitter.com/kylehopkinsAK).

ProPublica research reporter [Alex Mierjeski](#) and Anchorage Daily News reporter [Tegan Hanlon](#) contributed to this report.

Design and production by [Setareh Baig](#) and [David Sleight](#).

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LAWLESS

How We Talled Alaska Villages Without Local Law Enforcement

We asked more than 500 organizations representing 195 communities if they employ a police officer of any kind. Of that number, 70 communities reported having no police at some point in 2019.

by Kyle Hopkins, Anchorage Daily News, and Alex Mierjeski, ProPublica, May 16, 11:29 a.m. EDT



The Kiana village public safety office. The building houses the jail, which is comprised of two holding cells, and offices for the regional Native corporation, NANA. (Loren Holmes/Anchorage Daily News)

This article was produced in partnership with the Anchorage Daily News, a member of the ProPublica Local Reporting Network.

ProPublica is a nonprofit newsroom based in New York. Sign up for ProPublica's [Big Story](https://go.propublica.org/20181219-apple) <<https://go.propublica.org/20181219-apple>> newsletter to receive stories like this one in your inbox as soon as they are published.

The Alaska agency that certifies police officers does not track how many cops work in remote villages or the identities of many of those law enforcement officers. We set out to find which communities have no police protection as well as to identify officers with criminal records who, under state law, are not qualified to wear a badge.

To do this, we used several databases to create a master list of Alaska communities and local organizations that might employ police officers. We

reached out to every employer, in some cases up to a dozen times, in a multitude of ways.

The Data We Used

The Alaska Division of Community and Regional Affairs <<https://dcra-cdo-dcced.opendata.arcgis.com/>> lists some 434 communities across Alaska. But some are ghost towns, abandoned logging camps or simply neighborhoods that do not exist as separate communities with their own local governments. In order to narrow our list to cities, towns and villages large enough to have some expectation of local law enforcement protection, we considered only locations that already had basic state and federal services.

Namely, in order to be considered a candidate for police protection for the purposes of this research, a community had to have all three of the following:

- A local government such as a city council or traditional council;
- A post office or a contract postal unit;
- A public school.

To determine if a community had a local city government, we consulted the state Division of Community and Regional Affairs databases for city mayors, city managers and city councils. To determine if a community had a tribal government, we consulted the Bureau of Indian Affairs tribal leaders directory <<https://www.bia.gov/tribal-leaders-directory>> and the Division of Community and Regional Affairs database of federally recognized tribes <https://dcra-cdo-dcced.opendata.arcgis.com/datasets/5a0a8db819e64980944b47778ba230c5_0>. Tribal police officers are sometimes employed by village corporations established under the Alaska Native Claims Settlement Act, so we also reached out to each corporation listed in Division of Community and Regional Affairs databases <<https://dcra-cdo-dcced.opendata.arcgis.com/datasets/contacts-native-village-corporations>>. These databases and directories were also used to identify points of contact, phone numbers and emails for representatives of each city, tribe and corporation.

The presence of a post office or a contract postal unit <<https://about.usps.com/suppliers/becoming/contract-postal-unit.htm>> was determined using the U.S. Postal Service online post office locator <<https://tools.usps.com/go/POLocatorAction!input.action>>. (Postal Service spokesman Brian Sperry suggested this method. When we identified communities that appeared to be populated but **did not** have a post office or contract postal unit listed by the Postal Service, we confirmed the absence of a post office with Sperry.)

Finally, at the recommendation of the Alaska Department of Education and Early Development, we used the Alaska Public Schools Database <https://education.alaska.gov/DOE_Rolodex/SchoolCalendar/Home/Cities> to determine which communities had active schools and the enrollment for each. (Alaska generally closes a rural school when enrollment drops below 10 students.) The most current enrollment data was double-checked using a separate source within the Department of Education's data center, enrollment totals as of Oct. 1 <<https://education.alaska.gov/data-center#>>, the most recent information available.

All told, 195 communities met the above criteria. Of that number, 70 communities reported having no police of any kind at some point in 2019.

Two important caveats: The number of Alaska communities with local police protection changes on a near-daily basis. This research presents a snapshot of communities that, at some point between Jan. 1 and May 1, reported having no police protection. Some may have since hired officers, while other communities have since lost police.

Also, the data does not account for roving village public safety officers who, like state troopers, occasionally visit a village but are not permanently based there.

Determining Which Communities Have Police

There are many different kinds of law enforcement officers in Alaska, and their requirements, training and pay vary greatly. When considering whether a village had law enforcement, we did not differentiate between state troopers, certified city police officers, village public safety officers, village police officers and tribal police officers. In other words, a community could have a single tribal police officer who has received no law enforcement training and that community would still be considered to have local law enforcement for the purposes of this research.

That is because local law enforcement officers of all kinds are sometimes asked to respond to emergencies and village police officers and tribal police officers have provided lifesaving protections in Alaska despite receiving less pay and training.

To determine where state troopers are posted, we asked the Alaska Department of Public Safety for a list of all current posts and vacancies. The information in our research, including the number of trooper positions filled, the locations where troopers are posted and the number of vacancies, was provided on March 21 by a spokesman for the troopers, Tim DeSpain.

The list of locations where village public safety officers are currently posted is based on staffing as of Feb. 21, when 42 of them were employed

across Alaska, according to data provided by DeSpain. In one case, the list was updated through interviews with village city leaders who described the re-assignment of a village public safety officer from Ambler to Kiana.

Determining the locations of village police officers and tribal police officers proved the greatest challenge.

Under Alaska Administrative Code <<https://dps.alaska.gov/getmedia/aaf682f0-b014-486a-99e5-f94869db1e36/APSC-Guidebook-w-regs-Final-AdoptionV5.aspx>>, a village of 1,000 or fewer people that is located off the Alaska road system can hire a village police officer. Communities are required to notify the Alaska Police Standards Council within 30 days hiring such an officer. But in practice, the regulatory board receives few notifications and is unaware of the majority of village police officers working in Alaska at any given time, according to the executive director of the Police Standards Council, Bob Griffiths. As a result, the state cannot provide a comprehensive list of village police officers.

Tribes are not required to notify the state of tribal police officer hires, and their identifies are also unknown to the state in most cases.

To learn which communities have one or more village or tribal police officers, and which communities have no police whatsoever, we contacted every Alaska traditional council, tribal organization, village corporation and municipality in Alaska. All told, we asked more than 500 organizations representing 195 communities if they employ a police officer.

We requested the information in multiple ways:

- Each tribe, traditional council, corporation and city received an initial email request for police employment information in January or February. Those that did not respond received at least two follow-up emails.
- Those that did not respond to multiple emails received mailed letters.
- Beginning in March, we called every entity that had not responded to our emailed and mailed records request. In many cases, multiple phone calls were necessary to make contact with an employee or representative.

All told, we were able to speak to someone in all but 21 of the 195 communities. All 21 of those communities had a verified form of local law enforcement, such as a trooper, village public safety officer or a North Slope Borough Police Department officer stationed locally.

We made follow-up calls to the 70 villages without law enforcement to verify that information. Of those, officials in 60 verified that they had no police at some point this year. Officials in the remaining 10 communities did not respond to recent messages.

Determining Identities of Police Officers

For small cities, tribes, traditional councils and corporations that employ village or tribal police officers, we asked for the identity of the officers. Some communities provided officers' names. Some declined to name local police. In some cases, the Division of Community and Regional Affairs had collected officers names through a survey that asked for a list of all municipal employees. Other village officers were identified through online trooper dispatches or news reports. Research into the identities of village police officers and tribal police officers is ongoing.

Kyle Hopkins is an investigative reporter at the Anchorage Daily News. Email him at khopkins@adn.com and follow him on Twitter at [@kylehopkinsAK](https://twitter.com/kylehopkinsAK) <<https://twitter.com/kylehopkinsAK>>.

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LAWLESS

Why We're Investigating Sexual Violence in Alaska

Something has changed in the way Alaskans talk about sexual assault. A yearlong partnership between the Anchorage Daily News and ProPublica aims to highlight the stories of violence and survival in the final frontier.

by Kyle Hopkins, Anchorage Daily News, May 16, 11:29 a.m. EDT



A girl runs past a basketball hoop at the Kiana school. (Loren Holmes/Anchorage Daily News)

This article was produced in partnership with the Anchorage Daily News, a member of the ProPublica Local Reporting Network.

ProPublica is a nonprofit newsroom based in New York. Sign up for ProPublica's [Big Story](https://go.propublica.org/20181219-apple) <https://go.propublica.org/20181219-apple> newsletter to receive stories like this one in your inbox as soon as they are published.

Life in Kotzebue came to a standstill last fall when a 10-year-old girl vanished from a playground in the center of this northwest arctic town. After searchers found her body hidden in the tundra, police charged a local man <<https://www.adn.com/alaska-news/crime-courts/2018/09/24/wilson-charged-with-kidnapping-sexual-abuse-and-murder-of-10-year-old-ashley-johnson-barr/>> with kidnapping, sexual abuse and murder.

As one of the reporters covering the case, I tried to learn as much as possible about the 42-year-old suspect. He was a lifelong Alaskan and was

not a registered sex offender. Yet two family members soon told me <https://www.adn.com/alaska-news/crime-courts/2018/09/30/two-women-say-kotzebue-man-charged-with-killing-10-year-old-had-previously-abused-them-as-girls/> he had raped them decades earlier when they were girls, beginning a pattern of abuse. (He has pleaded not guilty to charges stemming from the Kotzebue homicide and has not responded to his relatives' claims.)

Around the same time, a police dispatcher in Nome said her colleagues ignored her <https://www.adn.com/alaska-news/crime-courts/2018/09/03/911-dispatcher-i-was-raped-and-nome-police-colleagues-ignored-the-case/> when she attempted to report that she had been raped on camera, prompting demotions and upheaval within that seaside police department. Inspired by the dispatcher's willingness to share her tale, a young woman from the nearby village of St. Michael said she too had been raped in Nome and that no one faced charges <https://www.adn.com/alaska-news/2018/10/04/a-second-woman-comes-forward-to-say-she-was-raped-in-nome-without-consequence/>. As one article led to the next, more and more survivors of sexual assault in Alaska agreed to tell their stories.

Here is what hit me the hardest about the interviews: Each person had more than one story to tell. I might ask someone about a specific sexual assault that occurred in the past few years, only to learn she also had been victimized as a child, and again as a teen and as an adult. Sometimes the crimes were reported to police, sometimes not. Sometimes the victims were adults, sometimes children. Mostly women, but sometimes men.

I can't recall one instance, from those interviews in the fall, in which a survivor said someone was ever held accountable.

At the Anchorage Daily News, whenever we'd talked about the most pressing issues the newsroom ought to cover, sexual violence and the sexual abuse of children loomed in the background. Alaska's sexual assault rate is three times the national average.

Sometimes the issue felt too big for a news organization with limited resources. We worried about missing the big picture. About promoting stereotypes or failing to present the context of historical trauma that must be considered when talking about modern problems in Alaska.

Often, we found people in villages and cities alike were simply unable or unwilling to talk about this subject with the same openness that they might discuss alcohol abuse or even suicide. Until recently.

Something has changed in the way Alaskans talk about sexual assault.

We asked survivors <https://www.adn.com/alaska-news/2018/10/04/are-you-a-survivor-of-sexual-abuse-or-sexual-violence-we-want-to-hear-from-you/> to help us learn more about breakdowns in the Alaska criminal justice system. More than 200 people from across Alaska confidentially shared their

experiences, many describing a system that assumes the survivor had been drinking before a sexual assault, or prosecutors who were uninterested in cases in which the victim was inebriated, or detectives who said the case couldn't move forward unless the victim called her rapist to obtain a recorded confession. Survivors, attacked in remote villages, said they were told not to shower, to climb on a plane and fly hundreds of miles to be interviewed and undergo a physical examination because rural clinics are not equipped to conduct a rape investigation.

About three-fourths of the people who responded said they would be willing to talk to a reporter on the record about their experiences with sexual violence in Alaska. They wanted to inspire others, to provoke permanent change.

At that point, our small newsroom asked for help. We were selected to join ProPublica's Local Reporting Network, and collectively we reached out to every city, town and village, every tribal council and corporation and every police department in Alaska. We obtained thousands of records from the court system. We asked police chiefs for information on every sex crime reported in their jurisdictions over multiple years.

Today, we report how one in three Alaska communities have no local police protection of any kind.

This is more than a professional pursuit. It is personal for me.

I was born and (mostly) raised in Alaska. I spent afternoons on cold beaches, overturning rocks in search of eels. Later, as a high schooler staring out the window of a float plane or sleeping on ferry boats en route to basketball tournaments, I remember thinking I was lucky to see and do these things.

The roots of this series date back to when I started working as a reporter here in the mid-2000s. At the time, Alaska Native villages were fighting for equal police protection from the state, arguing that if Alaska would not recognize the crimefighting powers of tribal courts, then villages should be safeguarded by publicly funded, armed and certified law enforcement — the same as in mostly white cities.

The villages lost the lawsuit, not because the Alaska Supreme Court decided we do not have a two-tiered justice system, but because that inequity was not *purposefully* racist.

To tell this story right, we need your help. If you are an Alaskan with a story to share about sexual assault or our legal system, please consider taking part in our [confidential survey](https://www.propublica.org/getinvolved/have-you-experienced-sexual-violence-in-alaska-make-your-story-count)

[<https://www.propublica.org/getinvolved/have-you-experienced-sexual-violence-in-alaska-make-your-story-count>](https://www.propublica.org/getinvolved/have-you-experienced-sexual-violence-in-alaska-make-your-story-count). If you have a tip or want to talk privately with a

reporter, email me at khopkins@adn.com or call me directly at 907-257-4421.

As Alaskans, we live in a magical place. Bountiful and beautiful and filled with resilient people. I'm grateful to have grown up here and to raise my daughters here. But for many, it is not safe. Let's try and understand why, and how to change it.

Kyle Hopkins is an investigative reporter at the Anchorage Daily News. Email him at khopkins@adn.com and follow him on Twitter at [@kylehopkinsAK](https://twitter.com/kylehopkinsAK) <<https://twitter.com/kylehopkinsAK>>.

ProPublica and the Anchorage Daily News are spending the year investigating sexual violence in urban and rural Alaska. Here's how you can stay in touch with us:

- *Share your story in our [questionnaire](https://www.propublica.org/getinvolved/have-you-experienced-sexual-violence-in-alaska-make-your-story-count)*
<<https://www.propublica.org/getinvolved/have-you-experienced-sexual-violence-in-alaska-make-your-story-count>>
- *Reach out to the reporting team anytime: alaska@propublica.org*

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Search And Rescue Recovers Unidentified Body From Kuskokwim River

By [ANNA ROSE MACARTHUR \(/PEOPLE/ANNA-ROSE-MACARTHUR\)](/PEOPLE/ANNA-ROSE-MACARTHUR) • MAY 21, 2019

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While searching for a man who drowned over the weekend, local search and rescue members found another body in the Kuskokwim River.

Searchers discovered the body on Tuesday afternoon in front of Bethel's Crowley fuel dock. It was wearing winter clothing and appears to have been decomposing for many months.

Bethel Search and Rescue President Mike Riley says that the only two people missing in the area are Stacey Hoalgand, who was last seen on September 13, 2018, and Daniel Smith, who was last seen on October 21, 2018. The body will be sent to Anchorage for the State Medical Examiner to identify.

Meanwhile, a search continues for a Napaskiak man who drowned on Saturday. Paul Kaganak, age 43, fell in the water when he attempted to leave his skiff after it drifted in front of a barge near Bethel's Crowley fuel dock. The strong current combined with the barge's wave action may have threatened to tip the boat. Two other people in the skiff exited safely with help from the barge's crew, according to Riley.

On Tuesday afternoon, 14 boats filled with searchers dragged the river for Kaganak. Volunteers came from Napaskiak, Napakiak, Kwethluk, Akiachak, and Bethel. Searchers plan to continue the effort until they recover the lost man.

Riley asks boaters to move slowly past the search party to avoid disturbing the chains dragging the river.

- **Share** (<http://facebook.com/sharer.php?u=http%3A%2F%2Fwww.bit.ly%2F2wbpFfF&t=Search%20And%20Rescue%20Recovers%20Unidentified%20Body%20From%20Kusko>)
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Coffee at KYUK (Replay)

Public Safety Persists As Top Issue For Y-K Delta Tribes

By [ANNA ROSE MACARTHUR \(/PEOPLE/ANNA-ROSE-MACARTHUR\)](/PEOPLE/ANNA-ROSE-MACARTHUR) • OCT 5, 2018

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[K%20Delta%20Tribes&body=http%3A%2F%2Fwww.bit.ly%2F2VSGCa1\)](mailto:?subject=Public%20Safety%20Persists%20As%20Top%20Issue%20For%20Y-K%20Delta%20Tribes&body=http%3A%2F%2Fwww.bit.ly%2F2VSGCa1)

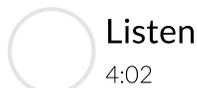


This time last year, there were eight Village Public Safety Officers across the Yukon-Kuskokwim Delta. Now there are nine, and one more is undergoing a background check as part of the application process. The region contains 56 tribes, and many don't have any law enforcement at all.

(http://mediad.publicbroadcasting.net/p/kyuk/files/styles/x_large/public/201810/IMG_7955.jpg)

Panelists discuss the state of public safety in the Y-K Delta at the 2018 annual AVCP Convention on Oct. 3, 2018 in the Bethel Cultural Center: (left to right) Trooper Capt. Andrew Merrill, AVCP VPSO Coordinator Alvin Jimmie, Lower Kalskag Village Council President Phyllis Evan, Hamilton Tribal Administrator Della Hunt, Tanana Chiefs Conference Tribal Government Specialist Jody Potts, and AVCP Program Administrator Martha Whitman-Kassock.

CREDIT ANNA ROSE MACARTHUR / KYUK



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4:02

Over the past two years, public safety has been named the region's top priority by delegates to conventions of the Association of Village Council Presidents. At this year's gathering in Bethel, a panel discussed how to recruit and retain VPSOs.

Phyllis Evan is President of the Lower Kalskag Tribal Council. In May, Lower Kalskag hired its first law enforcement officer in a long time: a Tribal Police Officer. Before that, tribal council members and community volunteers were the ones responding to emergencies. Now, even with a TPO, Evan remains on call.

"We do safety checks, we do welfare checks, even suicide attempts," said Evan. "We're on call 24/7. I feel that for me not to respond or for other people not to respond is not caring."

Lower Kalskag would prefer to have a VPSO. So would Kotlik, where Hamilton Tribal Administrator Della Hunt lives. Kotlik once had a VPSO hired from the village, but Hunt says that other people in the community would pick on him or threaten his family, and he soon quit. Now there's no law enforcement in Kotlik, and the community's only recourse during dangerous situations is to go on lockdown until a Trooper flies in from somewhere else.

"A lot of locals don't want to do the job, so we have to hire people from the outside and they cannot live in a rural village on the wage that they make," explained Jody Potts, who used to work as a VPSO and is currently a Tribal Government Specialist with the Tanana Chiefs Conference. She also serves on the governor's Tribal Advisory Council and participated in the Association of Village Council Presidents' public safety panel.

The number of Village Public Safety Officers is at its lowest point across Alaska, and Potts claims that the state already knows how to increase recruitment and retention.

"Honestly, the state knows how to do it, because they do it with the Alaska State Troopers to get them to go to the rural posts like Bethel, Kotzebue, St. Mary's," Potts said. "They give them a rural differential. So they get their base pay, they get their rural differential, and they also get the overtime."

This fall, Troopers received a 7.5 percent pay increase to make the positions more competitive with other law enforcement agencies in the state. Gov. Bill Walker has proposed a 7.5 percent pay increase for VPSOs as well.

Under the Alaska constitution, the state holds criminal jurisdiction across Alaska. But Potts sees rural communities receiving a lower standard of public safety than urban areas and communities on the road system. These rural communities are predominately Alaska Native. Closing the gap, Potts thinks, will require the state Legislature to not only provide more funding, but to change their attitude toward rural Alaska overall.

"Getting them to believe in the program and believe that VPSOs deserve and villages deserve equal service is going to be a big challenge," she said.

A decade ago, there were 30 VPSO's across the region. Those numbers were already in decline when in 2015 the state allowed VPSO to carry firearms. This change raised the positions' hiring standards and put the job out of reach for many rural residents.

Alvin Jimmie coordinates the VPSO program for AVCP and told the convention that the two main barriers for applicants in the region are drug use and criminal incidents on their records. Jimmie has been traveling the Yukon-Kuskokwim Delta, surveying the public safety infrastructure across the region. In August, AVCP held a public safety summit with partners from across the state. One idea that arose from the summit was to have roving VPSOs that float throughout AVCP's 13 units. AVCP plans to release a regional public safety assessment later this year.

Trooper Captain Andrew Merrill commands the state's VPSO program. He told the convention that the voices of rural residents are being heard. Improvements to the 911 system continue rolling out across Western Alaska, and Troopers have received half a million dollars in additional funding to travel to communities for non-emergency events such as potlatches and basketball tournaments.

AVCP would not permit its staff to be interviewed for this story, and this year, for the first time, AVCP would not allow KYUK to record any part of its annual convention. For more than a decade, KYUK had enjoyed providing sections of the convention to listeners who were unable to attend the event in Bethel.

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In Marshall, Residents Protect Each Other In A Village Without Police

By TERESA COTSIRILOS • MAR 22, 2018

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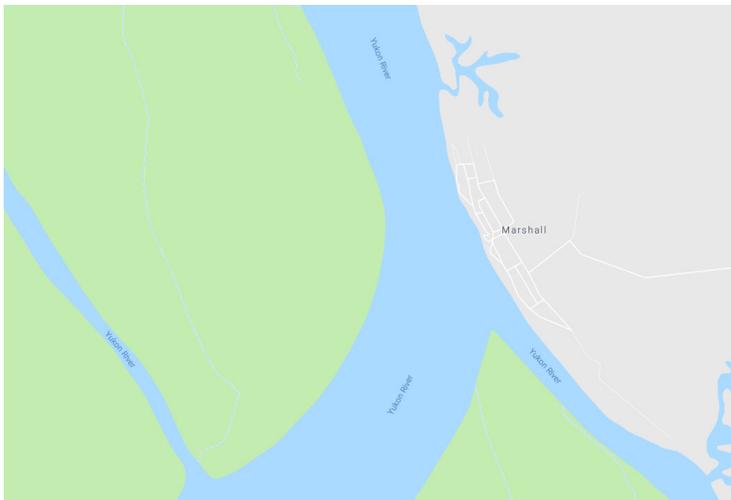
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Earlier this month, the village of Marshall pushed Governor Walker to issue an emergency declaration in their community due to the region's lack of public safety. For most of the past two decades, Marshall has been without police. Now residents are working out ways to defend their community on their own.

http://mediad.publicbroadcasting.net/p/kyuk/files/styles/x_large/public/201803/screen_shot_2018-03-22_at_7.25.47_pm.png

The village of Marshall hasn't had regular law enforcement in years.

Listen
4:35

"Living in a village without public safety is a feeling of uneasiness," said Marshall Tribal Administrator Nick Andrews Jr. "You never know what's going to happen."

Marshall is a tight-knit community of about 500 people, but Andrews says that it's in dire need of law enforcement. He says that opioids are becoming a problem, crimes related to alcohol intoxication have increased since Bethel's liquor store opened, and there has also been a rise in gun crimes. Andrews can

remember five times in the past year when shooters have put Marshall on lockdown.

"Ninety-nine percent of the time they're intoxicated, enraged," said Andrews. "We have houses being hit with bullets, people dodging bullets."

Marshall residents have started organizing the lockdowns themselves over VHF radios, and five young men in town have recently taken it upon themselves to help their neighbors. "They have been making citizen's arrests," said Andrews. "They have been protecting victims. We don't call them vigilantes." The men don't have any police training, but they did manage to talk down Marshall's last shooter back in October.

Marshall's tribal council unanimously passed a resolution earlier this month urging Governor Walker to issue an emergency declaration for their region. They hope that the resolution will generate enough funding to pay for law enforcement in the village. It was Andrews' idea. "We're caught in the perfect storm of funding, latent tribal justice programs, and a regional non-profit with its own issues," he said.

There are different kinds of law enforcement that operate in the villages, each financed by a different governing body. All of them are underfunded. Marshall's nearest Trooper post is a few communities away in St. Mary's. According to Spokesperson Megan Peters, the Troopers in this area are stretched thin, which can delay their responses to service calls, and the weather can delay them for days.

"There should be a Trooper in every community," said Alaska Commissioner of Public Safety Walt Monegan. But he said that the state just doesn't have the money to do that. It's struggling to find enough applicants for existing Trooper positions as it is.

Marshall could also apply for a Village Public Safety Officer (VPSO), which the village could get through their regional non-profit, the Association of Village Council Presidents (AVCP). But according to Alvin Jimmie, who runs that program, the state only awarded funding for 10 VPSO positions in a region with 56 villages this year.

Marshall doesn't have any Tribal Police Officers; its tribes are just beginning to set up a justice system now. As a municipality, Marshall could employ a Village Police Officer, but it would need state money to fund that position, and state money is drying up.

Over the past two decades, Tribal Administrator Nick Andrews Jr. says that Marshall has managed to get a Village Police Officer or a VPSO two or three times; they've always left within a year. In a small town with a high crime rate, AVCP's Alvin Jimmie says that the job can burn officers out.

"You'll be dealing with your best friends, your closest relatives," he said. "Don't expect a lot of friends."

Becoming a VPSO can be the beginning of an ambitious career path, said Jimmie, and he encouraged prospective applicants to get in touch with him. AVCP's Martha Whitman Kassoock also encouraged Marshall to file the initial paperwork needed to obtain a VPSO for their community, which Andrews says that he's in the process of doing.

Residents are on edge in Marshall, and Andrews knows it all too well. His daughter was assaulted by a man named Leon Edwards last January. Andrews ran to Edwards' house and fought him himself. "If anything was to happen to me, nobody would've known anything at that hour," he said.

The Troopers were called in to investigate, and Edwards was charged with six counts of assault. But a week before our interview, Andrews ran into Leon Edwards in the village. "I was on alert," said Andrew. "I have to be friendly, you know. 'Hi, hello.'"

Spokesperson Megan Peters said that the Troopers have been to Marshall several times, but they haven't been able to take Edwards into custody. So for now, the community copes as best it can.

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Banished Man Sentenced To Probation

By ADRIAN WAGNER • SEP 13, 2016

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After accepting a plea deal to charges of negligent homicide in a Bethel court on Monday, Derek Adams of Nunam Iqua has been sentenced to four years in prison and a decade of probation.

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Derek Adams at Bethel Sentencing

CREDIT ADRIAN WAGNER / KYUK

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5:47

Adams has already served his jail time while awaiting sentencing, and is now a free man. The sentencing comes after three villages banished Adams for a range of reasons which include starting a fire that killed three people. Adams' case has highlighted a debate over the state's obligation to respect tribal court decisions. After the sentencing hearing adjourned, KYUK's Adrian Wagner met with Lisa Demer of the Alaska Dispatch News to discuss the decision.

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BSAR Recovers Aaron Moses' Remains

By CHRISTINE TRUDEAU • JAN 17, 2019

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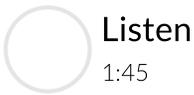
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The search for Aaron Moses is likely over. Yesterday, after a week and half of searching around the Quivik and Tundra Ridge subdivisions, Bethel Search and Rescue recovered a body believed to be Moses, missing since January 5.

The Bethel Police Department has located what they believe to be the remains of Aaron Moses, who had been missing since January 5, 2019.

CREDIT COURTESY OF THE BETHEL POLICE DEPARTMENT



Moses' family told Bethel Police that they were concerned because they hadn't seen him, and thought he may not have been taking his prescription medication. Shortly after that report got filed, Police Chief Burke Waldron says that they “pinged” Moses’ phone.

“That’s where they triangulate his cellphone's location based on available cell phone towers,” said Waldron. “We did get some hits on that ping in the Quivik subdivision area, so Bethel Search and Rescue had concentrated the bulk of their search efforts in that area.”

They remained unable to locate Moses until the cold snap broke this week and BSAR caught a break.

“Bethel Search and Rescue located a body yesterday close to the Quivik Subdivision, which is where Aaron lived, and those remains have tentatively been identified by Aaron’s family as Aaron,” Waldron said at 3:00 PM on Wednesday.

The body was partially covered in snow. Waldron says that foul play isn’t a likely factor.

“He was wearing a hooded sweatshirt with kind of a light jacket, rubber boots, and was not dressed appropriately for a long stay outdoors in the wintertime in Alaska,” said Waldron, “especially around the time he was reported missing. And you know we had that severe cold weather for several days in between.”

The remains have now been sent to Anchorage, where the medical examiner will do the final identification review and try to determine the cause of death.

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Emmonak Man Presumed Drowned

By KRYSTI SHALLENBERGER • JUN 18, 2018

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An Emmonak man is presumed drowned after a boating accident on Tuesday, June 13. State Troopers say that Brandon Johnson and Dennis Westlock's boat collided with a log in the Yukon River.

The Trooper dispatch said that an eyewitness, Darren Jennings, saw the accident and immediately tried to rescue the two. Jennings pulled Johnson out of the river, but says that when he tried to find Westlock, the man had disappeared. Johnson was treated for hypothermia at the Emmonak clinic.

Both men are from the village and are 23-years-old. Troopers say that alcohol was not a factor, but that neither man was wearing a lifejacket. Instead, they were sitting on them when the boat hit the log.

Troopers say that the recovery efforts are ongoing, with community members dragging the river for the body on Friday, June 15.

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George Mute's Body Found After Nine Months

By ANNA ROSE MACARTHUR (/PEOPLE/ANNA-ROSE-MACARTHUR) • JUN 16, 2016

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A couple in Napakiak has found the body of George Mute, age 26, of Kongiganak. Mute went missing in September.

(http://mediad.publicbroadcasting.net/p/kyuk/files/styles/x_large/public/201606/screen_shot_2016-06-16_at_4.45.15_pm.png).

George Mute, age 26.

CREDIT ALASKA STATE TROOPERS

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1:26

George Mute's body found after nine months.

Mike Riley, Bethel Search and Rescue President, says the couple was on the Kuskokwim River near Napakiak last Friday looking for wood when they saw something floating in the water.

“It looked like a bag, and then they went to check, and that’s what they saw—the remains,” he said.

Bethel Search and Rescue along with Alaska State Troopers retrieved the body and transported it to the State Medical Examiner’s Office in Anchorage who identified the remains as George Mute.

“It was kinda hard to make identification with visuals, so that’s why he had to be shipped into Anchorage and do identification through dental records,” Riley said.

Alaska State Troopers report Mute went missing in September after a boat carrying him and two other men collided with a sandbar on the Kuskokwim River near Napakiak, stranding the boat.

Bethel Search and Rescue found the two other men and began an over two-month search for Mute. At its peak the search involved over 50 searchers, 30 boats, and multiple aerial surveys. After a few weeks, the search changed to a recovery effort, looking for Mute’s body.

Riley says Bethel Search and Rescue suspended the search during freeze-up and resumed searching this spring.

Mute’s family held a memorial for Mute in Kongiganak in December.

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Respected Elders Drown In Yukon River Near Marshall

By [ANNA ROSE MACARTHUR \(/PEOPLE/ANNA-ROSE-MACARTHUR\)](#) • MAY 17, 2016

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Two elders drowned this weekend in Marshall when their vehicle suddenly slid into the Yukon River. The couple left a legacy of sharing traditional knowledge with their community. KYUK's Anna Rose MacArthur reports.

http://mediad.publicbroadcasting.net/p/kyuk/files/styles/x_large/public/201605/yukon_river_marshall_ak.jp

Fishing skiff in Marshall, Alaska.

CREDIT DANIELLE RINGER / ALASKA DEPARTMENT OF FISH AND GAME

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2:46

Respected Elders Drown In Yukon River Near Marshall

According to the Alaska State Trooper dispatch, Angelina Coffee, 76, and her husband Frank Coffee, 80, were launching their boat Saturday evening. Frank was driving when the vehicle suddenly plunged down a steep bank into the water. A nearby man dove into the river to pull out the couple. Bystanders began

administering CPR and transported the elders to the community clinic. The couple was pronounced dead about an hour after the accident.

Clara Shorty was in the clinic lobby, praying with the Coffee family when the pronouncement came. Afterwards she blessed the bodies with holy water. Clara worked with Angelina at the Marshall Catholic Church for more than 20 years and says the couple stood as respected elders among the community.

"They both contributed to our community by sharing our native way of life. They showed their children and grandchildren how to gather off the land, prepare and preserve fish for the winter, [and] how to hunt off the land," Clara said.

Clara says Angelina also instructed students at the Marshall school—telling traditional stories and teaching skills like crocheting and fur boot-making. Clara says the elder mentored everyone.

"She was my mom's friend. And when my mother passed away, she became a mother figure for me. She was my elder," Clara said. "If I had troubling questions about life problems, I would go to her, and she would give me advice."

Clara and Angelina served as Eucharistic ministers at the church and would hold services and funerals in the absence of a priest, which Clara says happened more times than not. With the women's close relationship, Clara says she won't be able to lead the Coffee's funeral. The emotion would be too great. She says the Sunday service the morning after the accident was the hardest she ever did.

"Because knowing her that she wouldn't be with me anymore during the services was hard. But I made it through with the parishioners. They came to pray with me, so that gave me a lot of support. Family members were there, and that made me happy, too," Clara said. "That made me able to go through the service."

Angelina worked as the school cook until retirement. Frank hunted, trapped, and worked as a mechanic. They are survived by eight children and many grandchildren.

The family will decide the funeral date once the bodies return from the State Medical Examiner's Office in Anchorage.

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'Stay Off the Ice' BSAR Warns As Two Dead From Four-Wheelers Falling Through Ice

By [KRYSTI SHALLENBERGER, ALASKA'S ENERGY DESK \(/PEOPLE/KRYSTI-SHALLENBERGER-ALASKA-S-ENERGY-DESK\)](#) • APR 1, 2019

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(<http://mediad.publicbroadcasting.net/p/kyuk/files/styles/large/public/201904/190414AC5042.jpeg>)

BSAR warns people to stay off the lower Kuskokwim River because of thin ice.

CREDIT KATIE BASILE / KYUK

Two four-wheelers carrying five men leaving Bethel broke through needle ice on the upper end of Church Slough on Sunday night. Two of the men died, while three others were treated for hypothermia in Bethel. Alcohol played a role.

Mark Leary with Bethel Search and Rescue was one of two people on the scene.

"I looked across the river. I said, 'Charles look. Look over there.' He got his binoculars. It was people on the ice in the very area that we had been warning

people to stay away from," Leary said.

Leary and another volunteer, Charles Guest, were told not to do anything because a helicopter was supposed to come, but it never did. Leary and Guest decided to go out anyway and not wait for the

helicopter. While they were out on the ice they were joined by others.

"We had to go upstream some distance to find a place that was marginally safe to cross. We made it across, but we broke through. We made it to the beach; we followed the beach down. Another

snowmachine from Akiachak saw us," Leary said. [Page 87](#)

<https://www.kyuk.org/post/stay-ice-bsar-warns-two-dead-four-wheelers-falling-through-ice>

Leary had brought a long pole with a hook at the end, called a pike pole, to distribute his weight on the ice. He crawled out first, tethered to a safety line, with Guest behind him and the snowmachiner from Akiachak holding the rope.

"It was confusing, so no sign of what you would expect to see four-wheelers breaking through the ice. There were no big holes or anything. There was just one unconscious man laying out on the ice, another one kneeling on the ice holding something in the water," Leary said.

They managed to get to the two men on the ice, one of whom held the body of partially submerged man who had succumbed to hypothermia.

Then, using the pike pole, they pulled out one body. A fifth man had ended up walking away from the scene, where BSAR volunteer Earl Samuelson spotted him from his plane a mile away.

Leary said that they couldn't bring back the two bodies, so they laid those on a bank and tied their feet to a tree to make sure they could recover them if the water rose.

"We put a space blanket over them, prayed for them, and left them," Leary said.

Leary says that they plan to head out today to recover those bodies and bring them back to Bethel. And he says that all winter travel should stop because the ice is too thin and dangerous to support a snowmachine, four-wheeler, or even rescue personnel. He says that this ice surprised the volunteers, who have never witnessed needle-ice or rock-ice this early in the season.

People aren't the only victims. KYUK was sent a picture of a moose that had broken through and died in Straight Slough. Alaska State Troopers and BSAR say to "stay off and stay safe." KYUK also received information that the river ice is going out at Nikolai.

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