

Public Safety in Rural Alaska

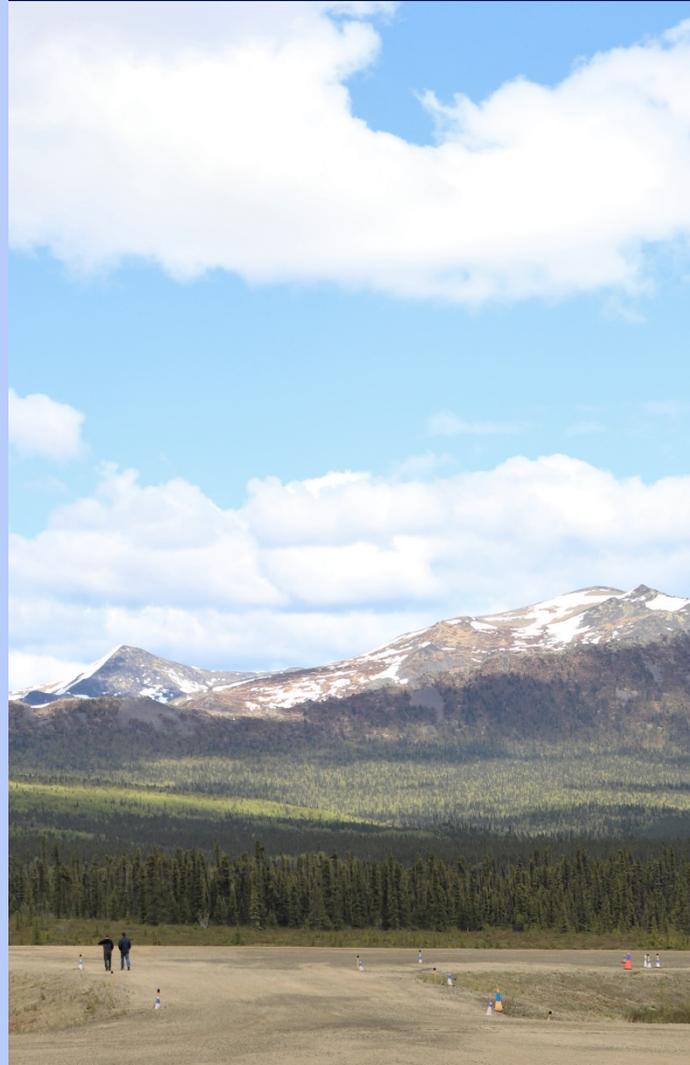
Recommendations for Successful Public Safety Service Delivery

*For the President's Commission on Law
Enforcement and the Administration of
Justice*

MAY 27, 2020

Association of Village Council Presidents

AVCP.org



Rural Alaska

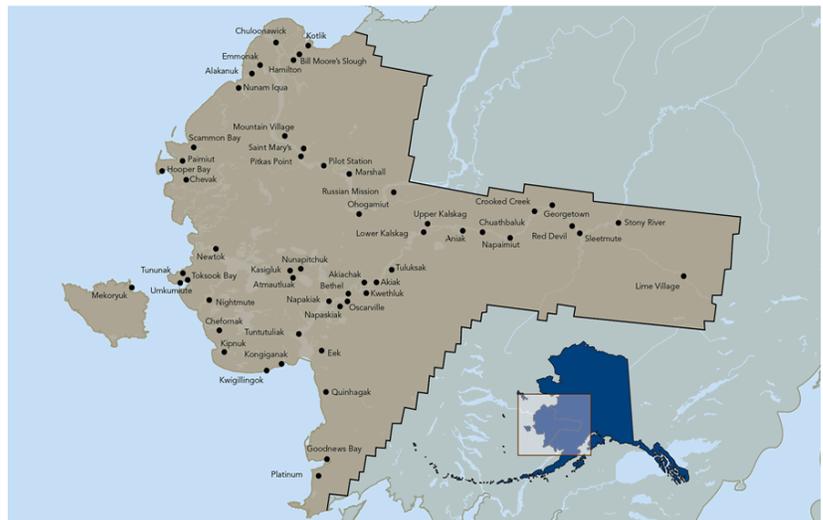
Extreme Rural America

The State of Alaska is 571,951 square miles, making it the largest state in the United States. Parts of Alaska are also considered the Arctic (above the Arctic Circle). Alaska's population is approximately 731,500, with approximately 234,000 residents in Rural Alaska. Rural Alaska consists of communities located off the road system. These communities are not connected to each other or the rest of the State by any roads or the Alcan Highway. These communities are accessible to the rest of the State only by plane or boat. Many communities in Rural Alaska are predominately made up of Alaska Native tribal members. The beauty and resiliency of Rural Alaska is unparalleled. However, the lack of transportation and technology infrastructure and the extremely high cost of living¹ bring unique challenges to Alaska Native communities in Rural Alaska. Many commonplace amenities in most areas of the lower 48 states, and even urban Alaska (e.g. running water, flush toilets, transportation infrastructure, internet services), are not readily available in Rural Alaska.



The Yukon-Kuskokwim Delta

The Yukon-Kuskokwim Delta (the “YK-Delta”), is located in Southwest Alaska. Geographically our region is about the size of the State of New York, approximately 55,000 square miles. As is characteristic of Rural Alaska, there are no roads connecting the 48 communities to each other or to the rest of Alaska. The main source of transportation within the region is by small aircraft. In the summer, travel by boat on the rivers and in the winter by ice road or snow machine trails is also commonplace.



The YK-Delta's population is approximately 26,000 people. 85% of the population is Alaska Native. The population is young, with a median age of 24-years-old. The YK-Delta is home to 56 federally recognized tribes, whose members are of Yup'ik, Cup'ik, and Athabascan descent. Members of the 56 tribes live in 48 communities (i.e. traditional Alaska Native villages) in the YK-Delta. Communities are located along the Yukon River, Kuskokwim River, and the Bering Sea Coast. Many villages are located on original traditional hunting grounds or fish camps. A subsistence lifestyle (fishing, hunting, and

gathering of native species) is widely practiced, and is the primary source of food for many tribal members.

The Association of Village Council Presidents

The Association of Village Council Presidents (AVCP) is a regional Alaska Native non-profit organization and tribal consortium. All 56 federally recognized tribes of the YK-Delta are members of AVCP, making AVCP the largest tribal consortium in the Nation (with 23% of Alaska’s tribes and 10% of all tribes in the Nation). AVCP provides community development, education, social services, culturally relevant programs, and advocacy to member tribes and their tribal members.

AVCP provides services on behalf of the U.S. Department of Interior, Bureau of Indian Affairs to member Tribes who choose to compact with AVCP. AVCP also provides additional services to all tribes and tribal members, regardless of compact status, on behalf of the Federal government or the State of Alaska (e.g. cash assistance benefits such as Temporary Assistance to Needy Families (TANF)).

AVCP operates several programs through its Family Services Center and Tribal Resource Center, including cash assistance benefits, child welfare, road construction and planning, Indian trust services, early childhood education, public safety, and other programs. We deliver services using a four-tiered model: at the village level, sub-regional level (i.e. “hub” villages), regional level (i.e. Bethel, Alaska), and out-of-region.

Public Safety in Rural Alaska

On June 28, 2019, Attorney General Barr declared a law enforcement emergency in rural Alaska, calling the law enforcement challenges “complex, unique, and dire[.]”² His observations were based on his own personal experience visiting Alaska and traveling to the different regions and meeting with tribal officials and tribal public safety officers in person.

The public safety crisis in rural Alaska is well documented.³ The statistics are stark and overwhelming:

¹ In December 2018, the average cost of groceries for US households was \$149 – in Bethel, Alaska it was \$396; the costs in more remote villages are even higher, <http://live.laborstats.alaska.gov/col/col.pdf>.

² Department of Justice Press Release 19-728 <https://www.justice.gov/opa/pr/attorney-general-william-p-barr-announces-emergency-funding-address-public-safety-crisis>.

³ See A Roadmap for Making Native America Safer, Chapter 2 – Reforming Justice for Alaska Natives: The Time is Now (The Indian Law and Order Commission’s Report to the President and Congress of the United States) https://www.aisc.ucla.edu/iloc/report/files/Chapter_2_Alaska.pdf. See also the “Lawless: Sexual Violence in Alaska” series by the Anchorage Daily News and ProPublica, <https://www.adn.com/lawless/>.

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- 59% of adult women in Alaska have experienced intimate partner violence, sexual violence, or both.⁴
 - Reported rape in Alaska is 2.5 times the national average.⁵
 - Alaska Natives comprise just 19% of the state population, but 47% of reported rape victims. Alaska Native women are over-represented by 250% among domestic violence victims.⁶
 - In Rural Alaska’s tribal communities, and for Alaska Native women living in urban areas, women reported rates of domestic violence up to 10 times higher than in the rest of the United States and physical assault victimization rates up to 12 times higher.⁷
 - More than 95% of all crimes committed in Rural Alaska can be attributed to alcohol.⁸

In the face of these statistics, tribes and tribal communities have little to no law enforcement resources to keep their members safe. Tribal communities rely on a patchwork of state law enforcement (Alaska State Troopers), state-funded and tribal-hired law enforcement (law enforcement provided by tribal consortiums, such as AVCP, through the Village Public Safety Officer Program), and local law enforcement (Village Police Officers or Tribal Police Officers). This patchwork approach leaves many gaps in service and most rural communities struggle to keep even one officer employed⁹, and as a result our communities – and the Nation’s northernmost border – are left unprotected.

Alaska State Troopers

The State of Alaska’s Department of Public Safety (DPS) includes the Alaska State Troopers (AST) Division. AST is responsible for providing public safety for areas too small or remote to employ local police. However, there are limited numbers of State Troopers. The vast majority are stationed along the road system. The ASTs stationed in Rural Alaska are based only in the hub villages. AST responds primarily to felonies, however transportation challenges, which includes inclement weather conditions, results in response times that vary from a few hours to several days.

⁴ “Missing or murdered? In America’s deadliest state, one family is still searching for answers.” USA Today, July 1, 2019, <https://www.usatoday.com/in-depth/news/nation/2019/06/25/deadliest-state-women-alaska-rape-and-murder-too-common-domestic-violence-rape-murder-me-too-men/1500893001/>.

⁵ *Id.*

⁶ Chapter 2, ILOC Report at 41 https://www.aisc.ucla.edu/iloc/report/files/Chapter_2_Alaska.pdf.

⁷ *Id.*

⁸ *Id.*

⁹ In May 2019, 98 tribal communities, with a total population of 30,000, had no state-funded law enforcement at some point in 2019. Of that number, about 70 communities had no local police of any kind. “These Cops are Supposed to Protect Rural Villages. They’re in the Suburbs Instead.” ProPublica, December 5, 2019, <https://www.propublica.org/article/looking-for-alaskas-rural-police-force-check-the-suburbs>.

Village Public Safety Officers

Village Public Safety Officer (VPSO) positions are funded through a grant from Alaska DPS. Tribal non-profit organizations and consortia apply for this state funding, hire VPSOs, and station them in tribal communities (i.e. villages). DPS provides training, equipment, and field oversight. VPSO training focuses on five public safety aspects: (1) law enforcement, (2) search and rescue, (3) emergency medical services, (4) fire suppression, and (5) water safety. VPSOs are unarmed and are often the only law enforcement presence in their assigned community.

The VPSO program faces several challenges, including: a steady decrease in State funding, disparity in pay relative to ASTs, and difficulty recruiting and retaining officers. Another challenge is the communities are responsible for ensuring a public safety office building and jail cells are available.¹⁰ Communities that are unable to provide public safety officer housing are also at a disadvantage. AVCP currently employs 4 VPSOs though we are funded for 10 positions and there are 48 communities in our region.

Despite these challenges, VPSOs remain highly desired and sought after by tribal communities in Rural Alaska. When a VPSO is present in a community, they are very effective because they are usually local hires or individuals with a working knowledge of their assigned community. Another desirable aspect of the VPSO Program includes a direct relationship between the community's governing body and tribal non-profit consortium – this gives the local community more input in how public safety is provided.

Tribal Police Officers and Village Police Officers

Tribal Police Officers (TPOs) and Village Police Officers (VPOs) (“tribal law enforcement officers”) are hired by a village's tribal government or municipal government, respectively. Tribal and municipal governments struggle to find funding to hire, train, and retain these officers. There is no sustained source of funding – such as funding determined by a tax base – to pay for training, salaries, or the public safety office buildings. Tribal communities rely on time-limited grant funding (e.g. Community Oriented Policing Services (COPS) grants), for-profit corporation donations, bingo proceeds, or any other source of available funds. As a result, positions are often part-time and do not include benefits. The only training in the State currently accessible to tribes for tribal law enforcement officers is at the Yuut Elitnaurviat training center in Bethel, Alaska. Tribal consortia, like AVCP, provide scholarships for training, but this funding only covers a two-week training program. These limitations result in many

¹⁰ In the summer of 2018, AVCP took a comprehensive assessment of public safety buildings in our Region. Of the 48 communities, 38 had public safety facilities – four of those facilities required major renovation or replacement and 24 facilities required some level of renovation. Nine communities had no public safety facilities at all. 26 of the communities had no dedicated public-safety housing. Full assessment available at <https://www.avcp.org/2019/01/26/avcp-public-safety-facilities-assessment-report/>.

young tribal law enforcement officers without training responding to domestic violence calls or incidents involving weapons.¹¹

A Successful Public Safety Service Delivery Model for Rural Alaska

This patchwork approach to public safety services in Rural Alaska is not working – Alaska Native women, children, and other vulnerable tribal members living in Rural Alaska are not safe in their communities.

To successfully deliver the public safety services tribal communities in Rural Alaska deserve, four components must be present:

1. Appropriate Resources

For comprehensive public safety service delivery, there must be appropriate public safety resources. In order to recruit and retain law enforcement personnel in our villages, there must be funding to provide reasonably competitive salary and benefits. Further, officers need the standard equipment necessary to do their jobs safely and effectively. Our villages also need public safety infrastructure – this includes public safety office buildings with holding cells, officer housing, and tribal court buildings. These are the basic components required for having a public safety presence in villages.

2. Tribal Authority

In rural Alaska, tribal authority is essential to the development of local-level responses to crime. However, Alaska Native tribes' authority to protect their communities has been called into question due to our unique legal history.

Tribal law enforcement typically happens in Indian Country, as defined in 18 U.S.C. 1151. In 1971, Congress settled Alaska Native land claims through the Alaska Native Claims Settlement Act (ANCSA). ANCSA has been interpreted by the United States Supreme Court as eliminating almost entirely "Indian Country" in Alaska.¹² This cast Alaska tribes' criminal jurisdiction into doubt and prevented them from exercising the authority or accessing the funding granted to other tribes under legislation that has been passed to address crime in "Indian Country."

¹¹"For Quinhagak tribal officers, law enforcement training means feeling prepared for a job they were already doing." KTOO, July 2, 2019 at <https://www.ktoo.org/2019/07/02/for-quinhagak-tribal-officers-law-enforcement-training-means-feeling-prepared-for-a-job-they-were-already-doing/>.

¹² *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998).

Furthermore, with the enactment of Public Law 83-280 (i.e. “PL-280”) the federal government withdrew from law enforcement in rural Alaska and transferred authority to the State, even though state law enforcement (with the exception of serious felonies) is largely absent in our villages. Additionally, with the apparent extinguishment of Indian Country in Alaska, Alaska Tribes are unable to request that the federal government re-assume federal criminal jurisdiction of certain violent crimes in their villages.

The inability of Alaska’s tribes to access the BIA’s tribal law enforcement funding combined with the apparent loss of authority to prosecute crimes committed within their villages due to the loss of Indian Country leaves tribal governments flummoxed as they attempt to protect tribal members from disproportionately high rates of violence. As a result, Tribes remain dependent on the highly centralized and thinly stretched state law enforcement.

As the federal Indian Law and Order Commission (ILOC) found in their 2013 report, by recognizing Alaska tribes’ criminal jurisdiction over their members in their internal village boundaries, it is “easier to create State-Tribal MOUs for law enforcement deputization and cross-deputization, cooperate in prosecution and sentencing, and apply criminal justice resources of optimal, mutual benefit” and it will facilitate the ability to create “intertribal courts and institutions.”¹³

3. Training

Adequate training is necessary to recruit and retain officers, promote officer safety, and to increase officers’ presence as a crime deterrent. Most police certification programs, such as the U.S. Indian Police Academy and the Alaska Law Enforcement Training Academy, are approximately 16 weeks in length. These full length-certification programs are then followed by field officer training and continuing education.

In addition to its full-length certification, the State of Alaska’s Law Enforcement Training Academy provides the 10-week VPSO certification program. The cost to attend the VPSO training is roughly \$65,000 per recruit, at a minimum. For tribes in rural Alaska, the state’s public safety academy is a cost prohibitive option. The only in-state alternative for TPOs/VPOs (law enforcement hired directly by local tribal communities) is the two-week basic training course offered by [Yuut Elitnaurviat](#), in Bethel Alaska.

¹³ Chapter 2, ILOC Report at 55 https://www.aisc.ucla.edu/iloc/report/files/Chapter_2_Alaska.pdf.

4. Career Path

Creating a youth engagement model to foster an interest in law enforcement careers and steering youth away from behaviors and activities that will result in future hiring barriers is a systemic solution to the current recruitment issues for public safety officers in Rural Alaska.

Introducing middle school and high school aged youth to a career path and keeping them engaged throughout their secondary education is a successful model for Rural Alaska. The University of Alaska's Alaska Native Science and Engineering Program (ANSEP) is a nationally recognized program for its success in placing Alaska Native and rural students on a career path toward leadership in the fields of science, engineering, mathematics, and technology. AVCP has partnered with ANSEP to increase the number of students from our region who attend ANSEP programs, with great success. We know that a similar model will produce similar results in public safety.

Three Recommendations

The following recommendations will have an immediate positive impact for public safety service delivery in rural Alaska.

1. Permanent, direct, noncompetitive base funding

A permanent source of funding will help tribes secure the fundamental and basic resources to provide public safety. Currently, the primary source of law enforcement funds Alaska's tribes can readily access to are Department of Justice funds issued through several grant programs. However, the insecurity and administrative burden of applying for grants on an annual or bi-annual basis is not an effective or efficient model for funding public safety services for tribes in Rural Alaska.

Tribes need a permanent and reliable source of funding that is provided directly to tribes and tribal organizations – not passed through the State.¹⁴ One such method is through compacting, a process whereby a recurring base amount of funding is provided upfront to a tribe or tribal organization to fulfill certain governmental purposes (in this case, providing basic public safety and law enforcement services). Compacting funds through tribal organizations/consortia has proven to be an effective way to manage federal funds and provide services to Alaska's tribes in both social services (Bureau of Indian Affairs funds) and healthcare (Indian Health Service funds) contexts.

An example of compacting authority legislative language for the Department of Justice is below:

¹⁴ On June 28, 2019, the Department of Justice made \$6 million dollars available to the State of Alaska for critical law enforcement needs of Alaska Native villages. On October 16, 2019, the Alaska Department of Public Safety published a solicitation for grant applications from tribes and tribal organizations. Awards were not made until May 2020.

Sec. ___ ACCESS TO JUSTICE. (a) Notwithstanding any other provision of law, the Attorney General may make compacts or and enter into contracts with entities defined in Section 7(a) of P.L. 92-203 [Native non-profit organizations] or consortia of such entities to provide grants from any Department of Justice program including the Criminal Division, United States Attorneys, Federal Bureau of Investigation, Drug Enforcement Bureau, Office of Justice Programs (including State and Local Law Enforcement Assistance programs, Community Oriented Policing Services (COPS), Office of Violence Against Women, and Juvenile Justice Programs), or other tribal justice, law enforcement, restorative justice, crime prevention, or other programs to expand and improve law enforcement and criminal justice in Native communities and to prevent violence against Native women.

In order to protect tribal communities, tribes must have the funding to secure the necessary law enforcement and public safety resources.

2. Support S.2616, Alaska Tribal Public Safety Empowerment Act

The Alaska Tribal Public Safety Empowerment Act (S. 2616) was introduced by U.S. Senator Lisa Murkowski (R-AK) on October 17, 2019. The bill recognizes that regardless of land title, Indian Tribes in Alaska have inherent civil and criminal jurisdiction over all Alaska Natives present in their villages and that Indian Tribes in Alaska have full civil jurisdiction within their villages to issue and enforce domestic violence protection orders involving any individual. The recent and unprecedented pandemic has highlighted the need for this authority also to be expanded to empower tribes to enforce tribal health and safety ordinances.

The bill also creates a new pilot program in Alaska in which the Attorney General would select up to five tribes or inter-tribal organizations each year to exercise general civil jurisdiction over all persons within the village, plus criminal jurisdiction over all persons concerning the following crimes: domestic violence, dating violence, violation of a protective order, sexual violence, stalking, sex trafficking, obstruction of justice, assault of a law enforcement or correctional officer, any crime against a child; and any crime involving the illegal possession, transportation, or sale of alcohol or drugs.

Passage of S.2616 gives a practical, tailored, Alaska-centered solution to a unique Alaska problem and gives Alaska's tribes the clear authority to protect their tribal members and communities.

3. Fully Fund Comprehensive Training for Tribal Law Enforcement Officers

What a comprehensive training program looks like may differ from region to region, but the need for tribal law enforcement training is clear. AVCP has reviewed two existing programs from Alaska's tribal health organizations, the Heath Aide Program and the Dental Health Aide Therapy program. Both programs have been successfully delivered in Rural Alaska to address dire community needs and are

nationally recognized for their success. These programs use an applied learning approach, similar to an apprenticeship. Students learn skills, return to their communities to apply them in real world settings, and then come back for advanced training and continuing education to build on foundational skills. A similar model can be used in our region to provide a full-length law enforcement certification course in three-to-four-week segments by an experienced training provider (such as Yuut Elitnaurviat).

Proper training is essential to providing law enforcement protection in rural Alaska – this is what our officers and communities deserve.

Conclusion

AVCP makes these recommendations based on decades of experience delivering social services in rural Alaska, years of public safety advocacy, and close working partnerships and collaborations with our member tribes, other Alaska tribal non-profits and consortia, and the Alaska Federation of Natives. These recommendations are proven to work in rural Alaska and are widely supported by Alaska’s tribes and tribal communities.

“We are not asking for anything less or anything more than any other community in Alaska or the United States.”

– Vivian Korthuis, AVCP CEO