
Resolving Disputes Locally: A Statewide Report and Directory

April 1993

alaska judicial council



*resolving disputes locally:
a statewide report and directory*

April 1993

alaska judicial council

authors

Joan F. Connors
Project Evaluator

Teresa W. Carns
Project Director

Susanne Di Pietro
Staff Attorney

judicial council staff

William T. Cotton, Executive Director
Teresa W. Carns, Senior Staff Associate
Susanne Di Pietro, Staff Attorney
Joan F. Connors, Project Evaluator
Josefa M. Zywna, Fiscal Officer
Peggy J. Skeers, Administrative Assistant

alaska judicial council

1029 West Third Avenue, Suite 201
Anchorage, Alaska 99501-1917
(907) 279-2526
FAX (907) 276-5046

Attorney Members

Mark E. Ashburn
Daniel L. Callahan
Thomas G. Nave

Chairperson, Ex Officio

Daniel A. Moore, Jr.
Chief Justice
Supreme Court

Non-Attorney Members

Jim A. Arnesen
David A. Dapcevich
Leona Okakok

acknowledgments

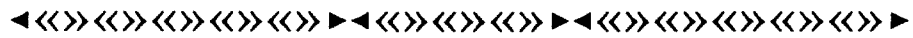
The Alaska Judicial Council would like to express its appreciation to the many people who contributed to this report. Over seventy people contributed their knowledge, time and useful suggestions in the preparation of this survey and comments on the first draft. Thanks also to the staff of the regional non-profit corporations who enthusiastically shared with us their work on tribal court development.

We want to especially recognize Leona Okakok, Judicial Council member from Barrow. In the six years she has served, Leona has shared her unique perspective on rural justice with the Council members and staff. We appreciate particularly the cultural understanding she has brought, and thank her for her generous contributions of time and ideas to the Council's work.

note to reader

This report represents what we have learned to date about tribal courts, councils, and other dispute resolution organizations in the State. We may have overlooked some organizations, and others that we included may have changed or stopped operating since the text was prepared. Please contact us with any corrections or changes you may be aware of so that we can update the supplemental directory. Appendix C contains a form that can be copied and used to record the information.

Table of Contents

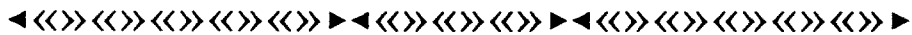


	Page
Introduction	1
Part I: The Evolution of Traditional Justice in Alaska Native Communities ..	5
<i>Structure of Native Societies before the Arrival of Non-Natives</i>	5
<i>Traditional Dispute Resolution</i>	6
Family Structure, Leaders	7
Resolving Disputes Among Groups	8
Types of Disputes Resolved	8
<i>Transition from Traditional Methods to Tribal Councils</i>	10
Structural Changes	10
Changes in the Work of Village Councils	14
<i>Geography, Economy, and Government of the Regions</i>	18
Geographical Divisions of the State	18
Economic Characteristics of Rural Alaska	19
Governments and Governing Organizations in Rural Alaska	20
<i>Summary</i>	21
Part II: Dispute Resolution Activity by Region	25
<i>Overview of Dispute Resolution Organizations in Alaska</i>	26
Federal Court System	26
Alaska Court System	26

Tribal Courts and Councils	29
Other Governmental Dispute Resolution Organizations	32
Non-governmental Dispute Resolution Organizations	32
Catalogue of Dispute Resolution Activity by Regions	33
North Slope	33
Kotzebue Sound	39
Bering Straits Region	43
Interior Alaska	49
Yukon-Kuskokwim Delta	58
Bristol Bay Area	65
Kodiak Island	68
Aleutian/Pribilof Islands	70
Cook Inlet Region	72
Prince William Sound/Gulf of Alaska	76
Southeast Alaska	79
Copper River Area	86
Part III: Interactions with Other Organizations	95
Introduction	95
Department of Public Safety	97
Troopers	98
Village Public Safety Officers (VPSOs)	99
Department of Health and Social Services	102
Department of Law	104
Criminal Division	105
Civil Division	105
Public Defender, Office of Public Advocacy	106
Alaska Court System	107
Superior and District Courts	107
Magistrate Courts	108
Department of Corrections	110
Alaska Legal Services	110

Part IV: Conclusions and Recommendations	113
Conclusions	113
Recommendations	114
The Governor's Office	115
Alaska State Legislature	115
Alaska Court System	116
Department of Law	118
Department of Public Safety and Local Police Departments	120
Department of Corrections	122
Division of Family & Youth Services	123
Public Defender Agency & Office of Public Advocacy	124
Regional and State Native Organizations	125
Local Communities	125
Bureau of Indian Affairs	126
Alaska Natives Commission	126
Alaska Bar Association/Attorneys	127
Boroughs and Municipalities	128
Appendix A: Alphabetical List of Organizations that Resolve Disputes in Alaska	A-1
Appendix B: Recent Developments in Alaska Native Law	B-1
Appendix C: Data Collection Form for Information About Rural Organizations	C-1

Introduction



This report provides a comprehensive overview of dispute resolution organizations functioning throughout rural Alaska in early 1993. It describes as many as possible of the organizations that have dispute resolution as their primary or as a major function, focusing on those serving predominantly rural communities. Many of these dispute resolution organizations are tribal courts and councils. Although it is often difficult to distinguish structurally between tribal courts and village councils, this report is an attempt to document the range and extent of dispute resolution activity in rural Alaska as of late 1992-early 1993.¹

This first section of the report provides a brief summary of the history and legal systems of the major Alaska Native groups² (Inupiat,³ Yupik,⁴ Aleut,⁵ Alutiiq,⁶

¹ As will be explained below, the situation with respect to rural organizations in general and tribal courts and councils in particular appears to be very fluid. For example, one person who reviewed the final report detailed at least three significant changes that had occurred in her region within the previous six months, meaning that information that was accurate at the beginning of our work in September of 1992 was already dated by March of 1993. We believe that publishing the report and directory will encourage further change, and hope to document new developments in a followup report in the future.

² Some villages and areas are home to several distinct cultural groups, making it difficult to accurately define their ethnic composition. The report notes the predominant group for a given area, recognizing that this may paint with too broad a brush in some instances.

³ Inupiat includes at least two major groups of Eskimos, those living on the North Slope and those in the Kotzebue Sound area. Another distinct group of Inupiat are Siberian Inupiat, and other groups live in Canada, Greenland and other circumpolar areas.

⁴ Yupik refers to the Eskimos of Western Alaska who form the Yupik-speaking branch of the larger family of Eskimo cultures extending from Prince William Sound to the Bering Strait and through parts of Canada, Labrador, Greenland and Russia. See A. FIENUP-RIORDAN, *ESKIMO ESSAYS* 5 (1990). Among the Yupik groups discussed in this report are the Yupik of the Yukon-Kuskokwim area, those around
(continued...)

Athabascan,⁷ and Southeast Indians⁸), to the extent that accurate information is available from written anthropological and sociological documents, and from interviews.⁹ The transitional use of village councils, the evolution of tribal courts from traditional adjudicatory systems and councils, and the overlaps and sharing of work between tribal courts and councils also are discussed. Information about the transition from traditional law-ways to village councils comes largely from the same sources, with much of this report based on interviews and research done by the Judicial Council in the past few years.

⁴(...continued)

Bristol Bay, and southern Yupik who may be found from Kodiak east along the Pacific Coast to about the Yakutat area. However, as noted below, Aleut and Alutiiq cultures should be distinguished from Yupik, and because the areas may overlap, caution should be used in identifying particular groups.

⁵ Aleuts speak a language distinct from either Eskimo or Indian groups, and have developed a distinct culture. Because the Russian presence was felt more strongly along the Alaska Peninsula and the Aleutian Chain in the 1700s and 1800s than in other parts of the State, it is more difficult to identify specifically Aleut traditions.

⁶ Alutiiq peoples distinguish themselves from Yupik and Inupiat Eskimos, as well as from Aleuts. They tend to reside along the southern Pacific Coast from Kodiak east to about Yakutat.

⁷ Athabascan Indians include several distinct language and cultural groupings, including Tanaina, G'witchin, Kenaitze, and Ahtna. They reside in the Interior of Alaska, along the upper sections of the Yukon and other major rivers, as well as in some areas along the Pacific Coast. Athabascans also include more southern Indians such as Navajos and Apaches. M. Krauss, *Native Peoples and Languages of Alaska* (1982) (map published by University of Alaska, Fairbanks).

⁸ Southeast Alaskan Indians include Tlingits, Haidas, and Eyaks, with Tsimshian Indians from Canada moving to Metlakatla in the latter part of the nineteenth century.

⁹ To prepare this report, Judicial Council staff interviewed numerous residents of the State who either worked in the communities described or worked closely with the people of those areas. Staff have not cited to individual interviews for two reasons. First, we tried to rely on more than one source for most statements made, and secondly, many people seemed to feel more comfortable with the idea that they would not be quoted directly by name. To further verify the information obtained, we circulated a draft copy of the report to nearly seventy people who had participated in the preparation of either this report or our earlier, more detailed evaluations of the Minto and Sitka Tribal Courts and the PACT organization in Barrow. Numerous reviewers made detailed and extremely helpful comments that were incorporated in this final report. Staff also read as extensively as our limited time permitted, and used the available written work to the extent possible. However, because this is a rapidly evolving area, we did not rely on written work as our only source for most information. Indeed, the very quickly changing characteristics of justice and dispute resolution in rural areas of Alaska means that much of our work may be outdated quickly. Thus, we urge readers to contact each organization individually for the most up-to-date knowledge of that organization's characteristics and work. In addition, because so many villages and groups are developing new programs, the fact that a community is not mentioned in our work should not be taken as an oversight or indication that no activity is occurring in the area. The directory entries in this report give addresses and contact persons for local and regional organizations in all parts of the State.

Part II of the report describes the present activities of local dispute resolution organizations within each region of the State, beginning with an overview of dispute resolution in the State as a whole. Part II also includes alphabetical directory listings of the names, addresses, and phone numbers of the organizations in each region of the State that offer dispute resolution services.¹⁰ Knowledge of present-day activities comes from interviews by the Council's staff for its earlier report,¹¹ and from interviews and materials assembled for the present report.

Part III of the report discusses the interactions of tribal courts, councils and other dispute resolution organizations with state governmental agencies. Part IV contains the Judicial Council's conclusions and recommendations.

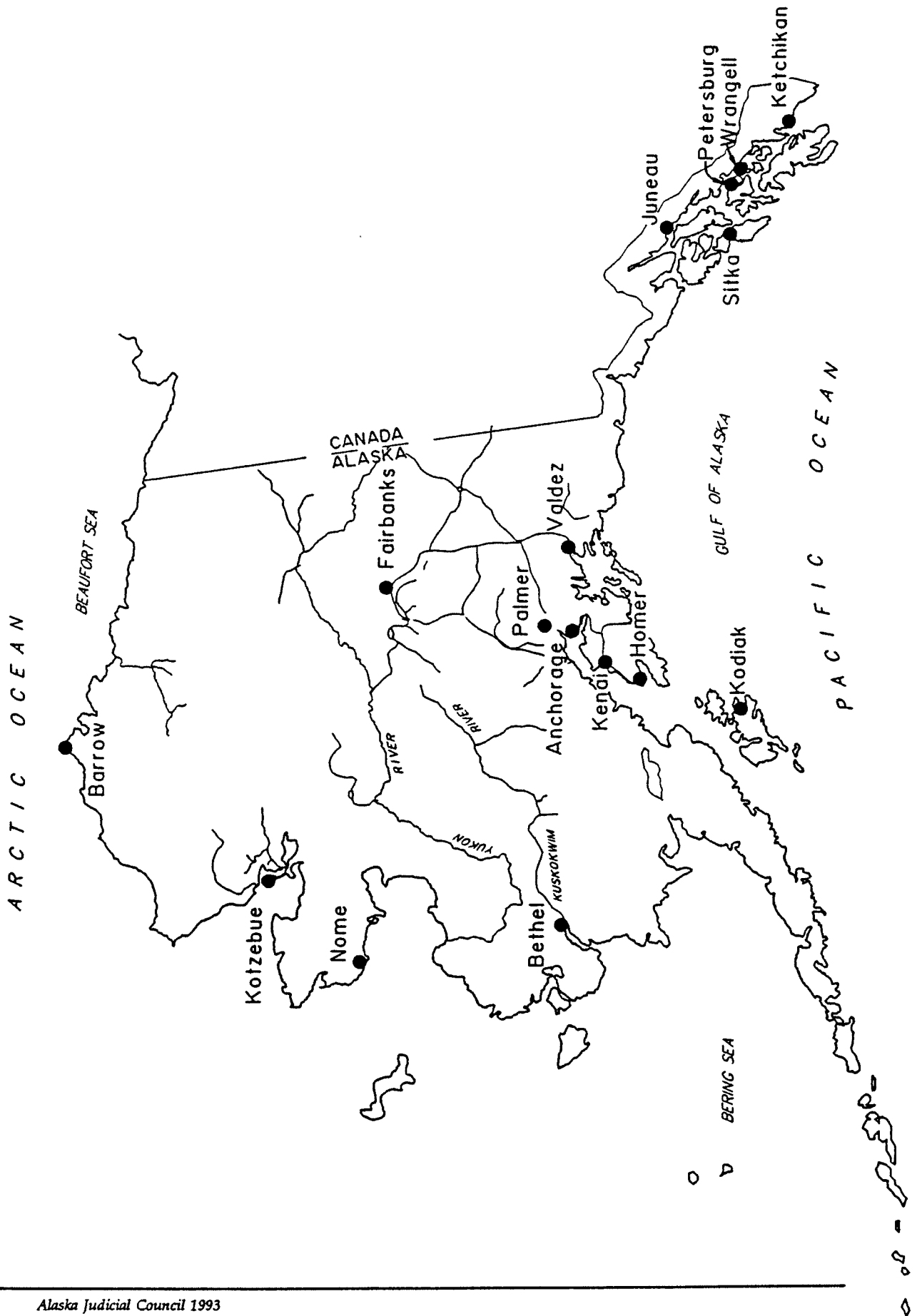
When the Judicial Council began reviewing rural justice needs and options in 1987, there were substantially fewer active tribal courts and councils than can be tallied in 1993. The situation has changed remarkably in the past six years, from one in which repeated inquiries led to information about only a handful of tribal courts and councils active in dispute resolution to the present, in which over one hundred villages and tribal organizations report dispute resolution activity. Given the fact that this rapid rate of change is likely to continue, another goal of this report is to document present activity for purposes of making future comparisons.¹²

¹⁰ Many of the organizations described in the Directory are relatively young or act only occasionally. Often, organizers gave little information. For these reasons, we have tried to list a contact person, but where the name of a contact person is not available we have given basic information about the location of the organization. Note that the report does not attempt to list every private person who offers dispute resolution services for a fee, or every type of specialized dispute resolution available, such as labor arbitration. For ease of reference, these directory entries also are organized alphabetically by village and by regional organization in Appendix A.

¹¹ J. CONNORS, T. CARNS, AND S. DI PIETRO, *RESOLVING DISPUTES LOCALLY: ALTERNATIVES FOR RURAL ALASKA* (1992) [hereinafter *RESOLVING DISPUTES LOCALLY*].

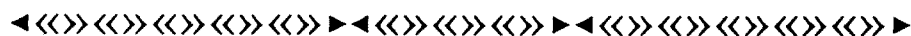
¹² To aid this effort, we ask readers of this report to use the data form in Appendix C to record information about their organization or others they know of. Return the form to the Judicial Council within the next nine months so that it can be used to prepare the next directory.

Figure 1
Alaska Superior and District Court Locations
Alaska Judicial Council 1993



Part I:

The Evolution of Traditional Justice in Alaska Native Communities



A. Structure of Native Societies before the Arrival of Non-Natives

Anthropologists who have studied Alaska Native groups generally agree that before the arrival of non-Natives, more than 75,000 Natives lived in Alaska. They spoke more than twenty different languages, and were divided into several hundred societies consisting of members of closely related family groups.¹³ Generally, the structure of these societies was based first on familial allegiances, and then on wider allegiances:

. . . [O]nly in very specific contexts—such as contacts with speakers of another language—did they see themselves as Tlingit, Athapaskan, Aleut, Inupiat, or Yup'ik. Their primary allegiance was to their families and tribal groups. For example, people of Nelson Island in western Alaska thought of themselves first as Tununarmiut (people of the village of Tununak), second as Qaluyaarmiut (people of Nelson Island), and only as Yupiit (literally "real people") or Yup'ik Eskimos in comparison with people who did not speak the Yup'ik language.¹⁴

¹³ A. FIENUP-RIORDAN, *CULTURE CHANGE AND IDENTITY AMONG ALASKA NATIVES: RETAINING CONTROL 2* Institute of Social and Economic Research (1992).

¹⁴ *Id.*

The Native groups relied for their livelihoods on hunting, fishing, and gathering. The Tlingit more than other groups were involved in extensive intertribal trade reaching from Southeast Alaska up to the western coast of Alaska.¹⁵ All tribes travelled substantial distances at different seasons to take advantage of food supplies occurring only in specific areas. Because of the need to follow food supplies, communities typically were located along waterways and on coasts. When Native groups settled into permanent villages, they chose sites close to resources and travel routes. Divisions of the state into regions that may appear arbitrary when glancing at a map become more comprehensible when river locations are considered. Similarly, village sites that served well in the historical context of a completely subsistence culture may be isolated at present from resources that could sustain village economies.¹⁶

B. Traditional Dispute Resolution

Anthropologists who have studied Alaska Native groups generally agree that those groups traditionally resolved disputes and dispensed justice within their groups through mechanisms reflecting the structure of the society. The following chart distills and summarizes some of the anthropological observations found in the literature.¹⁷

¹⁵ 7 F. DE LAGUNA, HANDBOOK OF NORTH AMERICAN INDIANS 203, 208 (1990).

¹⁶ Even traditional villages moved periodically, whether because richer resources in another area drew people away from earlier settlements, or because natural events such as flooding made a site uninhabitable. Within the past century, a number of village sites have been created and abandoned. Minto, for example, moved in 1971 to a new location because of flooding at the old. People still go to the old site for hunting and fishing, and the village runs a spirit camp for rehabilitation at the site. However, major investments in buildings, communications systems, and sewer and water systems discourage relocating villages today, even when economic or other considerations might make it advisable. In addition, of course, new sites are not as easily available.

¹⁷ Much of the information in this table was drawn from written works. Because it is a table, the information is presented in the briefest manner possible. Although such brevity omits much of the richness that characterizes each topic summarized, it seemed useful to be able to have a succinct overview of the entire state. The works relied on in compiling the table include: D. CASE, ALASKA NATIVES AND AMERICAN LAWS (1984); Hippler and Conn, *Northern Eskimo Law Ways*, 17 ISEGR, UNIV. OF AK. OCCASIONAL PAPER NO. 10 (1973); Hippler and Conn, *Traditional Athabascan Law Ways*, ISEGR, UNIV. OF AK. OCCASIONAL PAPER NO. 7 (1972); A. FIENUP-RIORDAN, *supra* note 4; and M. BLACKMAN, SADIE BROWER NEAKOK, AN INUPIAQ WOMAN (1989).

Table 1
Summary of Anthropological Observations
about Traditional and Transitional Legal Structures
for Alaska Native Groups

Group:	Inupiat	Yupik	Aleut	Athabascan	Tlingit
Family Organization	Bilateral extended, no clans	Bilateral extended, no clans	Not clear: village more important than family	Families/bands/matrilineal clans	House group, oldest male head, matrilineal clans
Dispute Resolution	Family; sometimes <i>umealik</i>	Family	Family; village leader (maybe with elders)	Family; band leader(s); Chief(s)	Clan elders; leaders; peacemaker
Peacemaker	No	No	No	No	Yes
Property	Territories defined; collective ownership w/in each group	Territories of groups defined; collective ownership w/in each group	Resource use areas maintained by villages; slaves (but none were captives)	Band control of territ. but not permanent; Southern groups had some slaves	Alienable prop. owned by clan, house; debt and war slaves
Leaders	<i>Umealik</i> , not inherited, but might run in families	Eldest man or men; inherited in some areas	Chief of village was from dominant family	Chief through ability; might run in families	Eldest man in housegroup; "nobles" in clans
Transition	Councils, brought in by teachers, etc.--members probably local family heads	Trading companies, churches appointed chiefs and councils, often calling on respected elders	Russians appointed chiefs, often from traditional families; under U.S., little information available	Elected chiefs/councils intro. by churches; today have both trad. and elected chiefs	Navy, etc., introduced councils of chiefs as jud. body. Clan structure maintained today

Alaska Judicial Council 1993

1. Family Structure and Leaders

Methods of self-governance and family structures differed among Alaska Native groups. Although families in all tribes exercised substantial authority within their own boundaries, the Eskimos (Inupiat, Yupik, Alutiiq) and Indians (Athabascan, Tlingit/Haida) structured relationships among families differently. The Eskimo tribes governed themselves within the context of extended bilateral family groups.¹⁸ The Alutiiq may have had more of a matrilineal¹⁹ structure, but limited documentary

¹⁸ A. FIENUP-RIORDAN, *supra* note 4, at 9. A bilateral extended family "consisted of from two to four generations, including parents, offspring and parent's parents. . . . Members of a single residential group were probably related to one another in several different ways within four or five degrees of consanguinity. *Id.* at 10. The separate bilateral families could and did intermarry, with the result that a child brought his maternal and paternal kindred groupings together. 5 R. SPENCER, NORTH ALASKA COAST ESKIMO, 320, 326 (1984).

¹⁹ Matrilineal organization of a society meant that family relationships were determined by one's relationship to one's mother, rather than to one's father, or to both parents.

evidence exists at the present. Among the family groups, especially within Yupik societies, the elder men of the households tended to hold more authority. Among the Inupiat, an *umealik* (boat owner) influenced the actions of others, but not in the sense of making decisions about what others should do, or telling others directly to take some action (or not take an action).

Alutiiq groups had hereditary chiefs for larger groups, with first, second and third chiefs exercising different levels of authority. Aleut groups tended to encompass an entire village, with one man from a dominant family assuming a leadership role. Athabascan bands recognized matrilineal clans, and lived in bands with chiefs tending to come from certain families, but with authority ultimately resting on demonstrated personal leadership. Tlingit and other Southeastern Native societies also recognized matrilineal descent. Extensive structures of social ranking created families of higher and lower statuses, with the elder males the leaders within the houses and among the clans.

2. *Resolving Disputes Among Groups*

Traditionally, disputes among groups might be not resolved at all, or resolved only through direct action by the family (Inupiat), resolved through various social controls including gossip, feuding, and counseling (Yupik), resolved by action of the village chief (Alutiiq, Aleut), resolved by meetings of elders and band chiefs (Athabascan), or resolved through discussions among clan leaders (Tlingit). Only among some Southeast Native groups was there a "peacemaker," a person with a specific dispute resolution role among different groups. Southeast groups also developed elaborate peacemaking rituals, some lasting a year, that involved hostages, ceremonies and feasts.

3. *Types of Disputes Resolved*

Offenses among Native groups that traditionally were addressed included theft and murder, and in some groups, adultery. Adultery appeared to be dealt with more frequently by the larger societal groups in the Athabascan and Tlingit societies in which the importance of the matrilineal clan structure dictated more attention to lineage. Particularly among Athabascans, but among other groups as well, failure to observe proper hunting practices was a serious offense, in some cases considered tantamount to murder. Actions taken ranged from those in which a family might respond to an offense

by moving away from the offender,²⁰ to execution or banishment of the offender, to payment or restitution for the offense, to physical punishment (the husband of an adulterous woman was permitted to beat her), to lengthy probation (for property offenders among the Athabascans). Among the Southeast Natives and Athabaskan bands, the status of the offender vis-a-vis the status of the victim was considered in determining the penalties.

Traditional law also applied to marriage, adoption and child-rearing, inheritance, and distribution of wealth within the social group. However, little information is available about whether disputes arose over these matters and if so, how they were resolved. Present-day tribal courts and traditional councils often tend to focus many of their efforts on family disputes,²¹ partly because of the Indian Child Welfare Act (ICWA)²² and partly because the tribal groups have re-defined the appropriate subjects for council action.²³ Also it is more likely that tribes have recognized jurisdiction in these areas, because they typically relate to non-territorial tribal matters, rather than to issues that involve territory or non-members. In some instances, for example Sitka, the tribal court handles one set of issues, and a separate group, the Court of Elders, is available for consultation on traditional law about other questions.

²⁰ An historically more recent example of this was cited by one ethnologist. He described a situation in which a violent person was banished by a village. The offender went to live in hills just outside the village and began to terrorize the remaining villagers. One by one, the individuals or families decided that they could not live with the situation and moved away, eventually leaving the village abandoned by all of its former residents.

²¹ See, e.g., *Native Village of Venetie v. Alaska*, 944 F.2d 548 (9th Cir. 1991).

²² 25 U.S.C. § 1901-1963 (1988). ICWA, passed in 1978, regulates tribal court jurisdiction of certain custody proceedings involving Indian children (including Alaska Native children), and authorizes a variety of grants to Indian tribes and organizations to improve their response to the social needs of their families and children. Specific provisions define state and tribal jurisdiction over child custody proceedings, give tribes a right to intervene in certain state court child custody proceedings, give tribes a right to notice of involuntary proceedings in state court, provide that full faith and credit be accorded to the laws and court orders of Indian tribes in these matters, and establish a preference that Indian children be placed with extended family or in other Indian homes if they must be removed from their homes. ICWA is discussed in more detail *infra* at pages 14-15.

²³ Another federal statute applicable in Alaska, Public Law 280, puts in question tribal jurisdiction over criminal offenses. For an overview of the legal issues surrounding criminal jurisdiction and PL 280, see RESOLVING DISPUTES LOCALLY, *supra* note 11, at Chapter III. Also, federal enactments and the history of territorial and state governmental practices have effectively removed the offenses of murder, adultery, other major offenses, and most thefts from the jurisdiction of tribal courts and councils.

C. Transition from Traditional Methods to Tribal Councils

Contact with the Russians in the 1700s, and later with agents of the United States government (e.g., the military, the Coast Guard, revenue ships, marshals, commissioners, missionaries and teachers) changed the social structure and dispute resolution methods of Native Alaskans. Most Native groups were encouraged by the federal government and others to develop councils composed of chiefs, elders or elected representatives to resolve disputes and handle a range of other village affairs. Equally important, the village councils gave residents a means of dealing with outside governments.

In 1936 the Indian Reorganization Act (IRA) became applicable to Alaska, offering Native villages a means of re-organizing village council structures. The Act clarified the federal government's recognition of the council's authority. Many village councils continued to be active after statehood, but the perception of authority to resolve disputes was made more ambiguous by the state court system's assertion of jurisdiction over dispute resolution after statehood.

1. Structural Changes

a. Early 1700s to the Early 1900s

Russians first visited Alaska in the mid-1700s, and began fur-hunting soon thereafter. They virtually enslaved the Aleuts, but co-existed with the Southeast Native groups, despite some periods of hostility. The United States purchased Russian claims to Alaska in 1867, and for many years governed the territory formally and informally with a combination of military, Coast Guard and revenue ships, marshals and commissioners, traders, missionaries and teachers. Each of these groups encouraged local leaders to collaborate with them, and most, for varying reasons, encouraged the growth of councils composed of chiefs, elders, or elected representatives of the local people.

Whether they perceived the councils as educational tools, a means of law enforcement and social control, or a method of inculcating Christian morals, the Caucasian exponents of the councils tended to draw on existing local structures for identifying and choosing leaders. The exceptions to this pattern were the election of councils and chiefs among some Athabaskan and Yupik groups, encouraged by missionaries and teachers. In areas where these elected councils took root, they often

operated side by side with the traditional chiefs and governing structures, a situation that continues today in some places.

What now are referred to as "traditional" village councils often were, in fact, transitional governmental structures, and not the pre-contact method of governing a group of people or adjudicating and resolving disputes. The councils typically had responsibility for handling a range of village affairs, and could be characterized as combining the executive, legislative and judicial functions into one organization.

b. Indian Reorganization Act of 1934

In 1934, the Indian Reorganization Act gave Native groups a means of reorganizing village council structures, and clarified federal recognition of these governing bodies. The IRA became fully applicable to Alaska in 1936.²⁴ Some villages included language regarding adjudicatory or dispute resolution functions in their IRA constitutions; others relied on more general language to provide for tribal courts. Over seventy villages eventually adopted IRA constitutions. Many of the IRA constitutions specify judicial authority and responsibility for the IRA government. Where the constitutions omit a specific reference to courts, villages have formed courts under more general phrases that permit the IRA government to "do all things for the common good which it has done or has had the right to do in the past."²⁵

A 1934-1935 BIA survey of about fifty villages brought to light a variety of governmental structures.²⁶ One village had a council composed of three chiefs (Tatitlek, near Valdez), others used multi-member councils and a chief (Tanacross, Interior and Hooper Bay, Southwest), and others had multi-member councils without a separate chief or mayor (Noatak in the Kotzebue area, Selawik). Not only did the councils vary in their structures, they drew their structures from different origins, including territorial

²⁴ Section 16 already was applicable to Alaska.

²⁵ CONST. AND BY-LAWS OF NATIVE VILLAGE OF MINTO art. IV, § 1. Minto is one example of a community that operated a tribal court in the 1940s and again from 1985 to the present. RESOLVING DISPUTES LOCALLY, *supra* note 11, at 69. Minto may have chosen a court over a council in 1985 partly because it had experience with a court in the past, or in part because more examples of active tribal courts were available in the State and from other states than had been in earlier decades.

²⁶ D. CASE, *supra* note 17, at 443.

laws. Councils handled a variety of matters, including inheritances,²⁷ quarrels between families or individuals, juvenile matters, regulation of alcohol use, and violations of community ordinances.²⁸

The councils, as distinguished from more traditional methods of maintaining social order, did not deal with every dispute or instance of law-breaking. The ability of councils to screen cases, taking only those that they wanted to handle, depended upon the presence of personnel outside the village capable of stepping in to assist villages in handling more serious offenders. The Navy, the Coast Guard, the territorial commissioners and marshals, and in more recent years, the state troopers and state court system have provided backup for village councils that did not want to manage serious, violent, or repetitive offenders. These "outside" government agencies have encouraged or required village councils to permit the external government to deal with these offenders.²⁹

c. After Statehood

The role played by village councils periodically has been recognized. The first Bush Justice conference (1970) recommended "strengthening of village councils."³⁰ A 1972 report by the Department of Public Safety recognized the dispute resolution role of village councils and encouraged more use of them.³¹ A 1979 court committee established to look at the roles of magistrates concluded:

²⁷ J. VANSTONE, *POINT HOPE: AN ESKIMO VILLAGE IN TRANSITION* 94 (1962). He notes that "controversies involving inheritance that come to the attention of the council usually are concerned with the disposal of houses or other important items of material culture, such as boats, dogs, sleds and the like." *Id.* He notes that the dispute goes to the council only after attempts to work out a solution among the disputants on their own have failed.

²⁸ *Id.* at 102-103. The author also reports a 1950 case resolved by the Pt. Hope Council in which custom and tradition were cited in resolving a dispute over ownership of a walrus (dead). *Id.* at 104-105.

²⁹ The relationships among the councils and the backup organizations have not been perfect: an offender may be dealt with by the village council several times; after a number of offenses, the council may decide the offender is recalcitrant and call for the troopers. However, the state courts, because there is no record of prior offenses, may treat the defendant as a first-time offender, despite the relatively lengthy history of bad behavior. J. ANGELL, *ALASKAN VILLAGE JUSTICE: AN EXPLORATORY STUDY* 70 (February 1979) (University of Alaska Justice Center).

³⁰ See, Alaska Judicial Council, *Bush Justice Conference Report: December 8-11, 1970 at Girdwood, Alaska* (1971).

³¹ Nix, *Department of Public Safety Report 2* (1972) (unpublished report to Criminal Justice Planning Agency).

12. Policy Regarding Alternative Processes

The court should encourage villages and appropriate agencies to experiment with alternative processes for out of court resolution of minor disputes, the court should not become actively involved in selecting, implementing, or evaluating alternative processes.³²

Interviews and written work indicate that a number of villages in the 1970s used their village councils to resolve disputes. The best-known examples were in the Yukon-Kuskokwim and Nome-Kotzebue areas,³³ although much activity may have been occurring in other areas that was not specifically documented. However, many persons recall the 1960s and much of the 1970s as being a time during which councils were relatively inactive with respect, at least, to dispute resolution. This inactivity may be at least partially explained by the fact that after statehood, the State's concern about enforcement of liquor ordinances may have resulted in weakening of the councils' authority. Previous territorial policy had encouraged councils to control alcohol use, but the new State government did not believe that it should continue those policies.

A 1979 study that surveyed fifty-five villages in the Interior and coastal areas (excluding the Southeast) noted that about a third of the villages used councils or, in a few instances, the "problem boards" established as an experiment by the court system in the mid-1970s to resolve some disputes and handle some criminal matters.³⁴ The problem boards, tried first in Emmonak, and then in six other Eskimo villages had some elements of council-type activity, but other elements of more western-style alternative dispute resolution.³⁵ In some villages, councils imposed fines and occasionally jail time,

³² Recommendations of the Second Magistrate Advisory Committee (Feb. 5, 1979) (unpublished report to Alaska Court System).

³³ Hippler and Conn, *The Village Council and its Offspring: A Reform for Bush Justice*, 5 U.C.L.A.-AK. L. REV. 23 n5 (1976). The authors list Manokotak, Napakiak, Gambell, Savoonga, Selawik and Wainwright as having councils, and refer also to Kagilakak.

³⁴ J. ANGELL, *supra* note 29, at 101.

³⁵ See J. MARQUEZ AND D. SERDAHELY, ALASKA COURT SYSTEM VILLAGE CONCILIATION BOARD PROJECT EVALUATION 4-6 (June 1977).

with village police officers serving as the source of cases.³⁶ Fining and imposing of jail time were less traditional activities for village councils that had earlier emphasized a more indirect and preventative role.³⁷

2. Changes in the Work of Village Councils

The content of the councils' work has changed, to some extent. Alcohol use and control became a matter of deep concern for village residents after the early 1960s.³⁸ Problems with the enforcement of alcohol laws came in part from the state's evolving position that alcohol was a disease that should be treated, and that other interventions were inappropriate and even illegal. In small villages lacking any alcohol treatment facilities or means of dealing with a dangerously drunken person, the state's position offered no assistance in emergencies. Local police, or unarmed VPSOs could call Troopers for assistance, but bad weather or limited numbers of Troopers often prevented prompt response. Injuries from alcohol-related violence that might be simply serious in an urban context with quick access to state-of-the-art medical care could be life-threatening in a village with no medical facilities.

The passage of the Indian Child Welfare Act (ICWA) was another major impetus for increasing activity in village dispute resolution. ICWA gives tribal courts an important role in foster care and adoption placements of Indian children, and virtually every tribal court or council in the State that is active in dispute resolution is involved in ICWA cases in some way. In order to understand the work of tribal dispute resolution organizations in Alaska, however, it is important to understand the disagreement between the State and the tribes as to the proper legal fora for adjudication of these issues. The State contends that Alaska Native tribes were divested of their jurisdiction over Indian child custody matters by a federal law commonly known as

³⁶ W. Nix, *supra* note 31, at 2.

³⁷ S. Conn, *Alaskan Bush Justice: Legal Centralism Confronts Social Science Research and Village Alaska* 12 (1981) (paper presented at IUAES Commission on Contemporary Folk Law Meeting in Lake Como, Italy).

³⁸ T. LONNER AND J. DUFF, *VILLAGE ALCOHOL CONTROL AND THE LOCAL OPTION LAW: A REPORT TO THE ALASKA STATE LEGISLATURE II-1* (June 24, 1983). Villagers were prohibited from using alcohol from the purchase of Alaska by the United States until 1953. *Id.* Although bootlegging existed during this period, alcohol use and availability did not change radically in most villages until the early 1960s when market demand, money, transportation systems, and organized legal distribution systems changed, as did the presence of strict internal village norms and controls. *Id.* Presently, villages are very concerned with alcohol problems; for example, alcohol-related cases comprised over half of the Minto Tribal Court's caseload from 1985-1991. *RESOLVING DISPUTES LOCALLY*, *supra* note 11, at 76.

Public Law 280 (PL 280),³⁹ and that the tribes can not regain any jurisdiction until they petition for and receive approval from the Secretary of the Interior under ICWA's reassumption of jurisdiction provision, section 1918(a).⁴⁰ The tribes contend that PL 280 divested tribes only of their traditional *exclusive* jurisdiction over child custody matters, leaving them to share concurrent jurisdiction with the State.⁴¹

This ongoing disagreement as to the proper legal interpretation of ICWA and PL 280 does not as a practical matter prevent Alaska Native tribes from being involved in Indian child custody proceedings.⁴² Although Alaska state courts will not agree to transfer or share jurisdiction of these cases with Alaska Native tribal courts, the tribal councils and courts routinely receive notice from the State of involuntary child custody proceedings.⁴³ Tribes have the right to formally intervene in those state court proceedings at any time, and many tribes exercise that right as a matter of course or on a case-by-case basis.

In addition, many tribes become involved informally in ICWA cases by, for example, contacting the state social worker with placement suggestions. Other tribal councils and courts, such as the Minto Tribal Court, become involved in child custody cases before they even come to the attention of the State by proactively counseling parents whose children are perceived to be in need. Because of the variety of approaches Alaska Native tribes take to involvement in ICWA cases, Judicial Council staff were not in most instances able to define the exact nature of a given tribe's ICWA activity. A statement that a particular council or court is "involved in" or "handles" ICWA cases does not necessarily mean that the tribe formally intervenes in the case.

³⁹ PL 280 extends Alaska's state court civil jurisdiction to private civil causes of action involving Indians in Indian country. 28 U.S.C. § 1360(a) (1988).

⁴⁰ Currently, no tribes in Alaska have petitioned for or received the Secretary's approval.

⁴¹ The legal arguments and the caselaw are explained in more detail in the Council's earlier report, *RESOLVING DISPUTES LOCALLY*, *supra* note 11, at 52-57.

⁴² Nor does the disagreement prevent state courts outside Alaska from transferring jurisdiction of ICWA cases to Alaska Native tribal courts and councils.

⁴³ The Alaska Supreme Court has held that the State is not required under ICWA to give tribes notice of voluntary child custody proceedings, including cases in which a parent voluntarily agrees to termination of his/her parental rights. See *Catholic Social Services v. C.A.A.*, 783 P.2d 1159 (Alaska 1989). Tribes do not have a statutory right under ICWA to intervene in voluntary termination proceedings. *Id.* However, the lack of a statutory right under ICWA does not necessarily prevent tribes in Alaska from becoming involved informally in voluntary proceedings.

Juvenile and family problems also inspired many villages to look for ways of resolving disputes locally. Situations that in urban areas might be dealt with in the context of a wide variety of resources to assist the family and the juvenile were seen in a very different light in isolated villages with very few, if any, resources.

Other issues appear to have been considered rarely. Although some communities have considered fish and game matters in their councils and tribal courts, the topic occurs much less frequently than might be expected, given the emphasis on subsistence and resources in the daily life of village residents. Numerous civil issues, such as landlord-tenant relationships, business/customer also might be resolved by village councils.

One author has written:

"[O]ne should never forget that most problems among Eskimos, both Yupik and Inupiat, remained outside of the domain of either (emphasis in original) village councils or Western law. Critical issues of resource sharing and wildlife management remained outside of this sphere as did most matters of intra-familial conflict. What village councils dealt with usually involved matters with the potential of being transformed into Western Law violations at some point in their maturation. . . . Councils bound social control and law together."⁴⁴

The author also suggested that missionaries influenced the structure of law-ways, as well as their content.

Within the village, enforcement of ordinances and other laws always depended to some extent upon the presence of enforcement personnel. In some instances, local village police worked directly with the local council or court.⁴⁵ Only about fifty-three communities in the State have at least a resident magistrate or other state court judicial

⁴⁴ S. Conn, *The Interrelationship Between Alaska State Law and the Social Systems of Modern Eskimo Villages in Alaska: History, Present and Future Considerations* 9-11 (August 26-31, 1985) (paper delivered at International Sociological Association Conference at Aix en Provence, France). But see J. VANSTONE *supra* note 27, at 102, et seq., showing that village councils could and did handle a very wide range of issues, including resource management.

⁴⁵ The Council's earlier report documents the important role of the Village Public Safety Officer (VPSO) in the work of the Minto Tribal Court. *RESOLVING DISPUTES LOCALLY*, *supra* note 11, at 77 Fig. 3.

officer, leaving the great majority of communities without one. A tribal court or council might define its work differently, depending on the presence or absence of state or other governmental personnel.

Another discussion of Eskimo councils emphasizes the perception that councils did not adjudicate issues of guilt and innocence, or resolve civil cases based on provisions of established laws.⁴⁶ Punishment was far less important than avoidance of violence.⁴⁷ Considerations of Western-style due process and equal protection were not necessarily appropriate to council activity, whose work focussed on maintaining harmony in the community. The emphasis on avoiding violence and personalizing justice rather than administering a system of law meant, by definition, that the law was unequally applied. The author characterized the village activities and approach to justice as resembling "screening and diversion" (which traditionally are areas of very broad discretion for law enforcement).

An important difference between earlier councils, and present-day councils and tribal courts often is the age of the members. Earlier councils tended to be comprised of elders in the village. Councils and tribal courts since about the 1970s often have had younger members. In Minto, the younger judges on the tribal court reported they were uneasy with the counseling roles assumed by elder members in cases of child neglect or abuse,⁴⁸ and therefore did not use the court's hearings for that purpose. In Sitka, the tribal council established a tribal court, and separately, a Court of Elders to decide matters of traditional law and action.⁴⁹ In other areas, the younger members of the community do not regard the decisions of the council as legally binding and prefer the structure of the tribal court, finding it more expressive of the broader governmental goals associated with sovereignty. Even in these situations, however, most of the younger members turn to the elders for support, advice, and information about traditional laws.

⁴⁶ Hippler and Conn, *supra* note 33, at 33.

⁴⁷ *Id.* at 36.

⁴⁸ RESOLVING DISPUTES LOCALLY, *supra* note 11, at 83.

⁴⁹ *Id.* at 100-101.

D. Geography, Economy, and Government of the Regions

To understand why it has been difficult for the State adequately to serve its remote areas with law enforcement and justice-related agencies, and to understand the types of organizations that have developed or taken on dispute resolution functions in the smaller communities, it is helpful to have a very general picture of the geography, economy and governmental structures throughout the rural parts. Other reports provide general summaries,⁵⁰ that touch on the great distances, severe and uncertain climate, immensely rich (but unevenly distributed) natural resources, and relatively recent development of the State. The information presented here briefly covers general points that help to clarify the extent to which geography and economy directly and indirectly dominate a discussion of dispute resolution in rural Alaska.

1. Geographical Divisions of the State

Figure 2 (page 24) shows the twelve regions of the State.⁵¹ The lines for these regions were drawn in the process of coming to agreement on the Alaska Native Claims Settlement Act⁵² (ANCSA) and serve today to define divisions in the State for a host of other purposes, including the boundaries of the areas served by the Native non-profit

⁵⁰ See, e.g., *id.* at Chapter 2.

⁵¹ The twelve regions are listed below with the non-profit corporation which serves them, and the primary Native group(s) who live there.

1. Arctic Slope Native Association Ltd.	North Slope Borough	Inupiat
2. Maniilaq Association	Arctic Northwest Borough	Inupiat
3. Kawerak, Inc.	Nome, Norton Sound	Inupiat
4. Association of Village Council Presidents	Bethel, Lower Yukon/Kuskokwim	Yupik
5. Bristol Bay Native Association	Dillingham, Bristol Bay	Yupik
6. Aleutian - Pribilof Islands Association	Western Alaska Pen., Aleutians	Aleut
7. Kodiak Area Native Association	Kodiak Island	Alutiiq
8. Cook Inlet Tribal Council	Anchorage, Kenai Penin., Mat-Su	Athabascan
9. Chugachmiut	Southern/East Kenai, Prince Wm. Sound	Athab., Alutiiq
10. Copper River Native Association	Glennallen, Copper River area	Athabascan
11. Tanana Chiefs Conference	Interior Alaska, Doyon area	Athabascan
12. Central Council Tlingit Haida Indians	Southeast Alaska	Tlingit, Haida

⁵² Signed by President Richard Nixon in December 1971, this law was intended to compensate Alaska Natives for the loss of lands historically used and occupied. In exchange for extinguishment of all claims by Alaska Native groups based on aboriginal title, the Act granted Alaska Natives full legal title to 44 million acres of land (generally intended to be located near the Native villages), and paid them \$962.5 million. The Act provided for the establishment of regional and village Native profit-making corporations to select and manage the land, and to receive the cash settlement.

corporations. Because the Native non-profits often offer services to tribal courts and councils, the description of tribal court and council activity throughout the State is organized by ANCSA region. The Native groups tend to be somewhat homogenous within the twelve regions.

2. Economic Characteristics of Rural Alaska

Village economies, including those of the larger hub communities such as Bethel, Barrow, Nome and Kotzebue, rely on three sources of income. The largest is transfer payments, including state and federal revenue sharing, individual programs such as AFDC, the Permanent Fund dividends and Medicaid, and state and federal jobs such as teaching, social services and "infrastructure" (e.g., airfields).⁵³ One author estimates that fully 60% of the villages' economies are based on transfer payments, and that three times as many people live in rural areas because of transfer payments as could be supported otherwise.⁵⁴

Second, a number of communities rely on a market economy based heavily on extraction of natural resources (whether fish, timber or oil). Communities that possess those resources will be healthier economically than those that do not.⁵⁵ The third aspect of village economies is subsistence. Recent studies have found that annual subsistence harvests range from 700 to 1,100 pounds of food per person per year in the smaller communities.⁵⁶

Numerous commentators have considered the future of village economies. They have noted that while subsistence lifestyles provide the rationale for the geographic location of villages, the subsistence harvest alone cannot sustain the population.⁵⁷ The transfer economy that currently enables many villagers to stay where they are is not likely to continue at its present level, given changes in federal and state funding. Most villages were not originally located with thought of a market economy. While some

⁵³ L. HUSKEY, *THE ECONOMY OF VILLAGE ALASKA* 1 Institute of Social and Economic Research (1992).

⁵⁴ *Id.* at 9.

⁵⁵ *Id.* at 13.

⁵⁶ *Id.* at 8.

⁵⁷ *See, e.g., id.* at 8-9.

have found or used marketable resources in their vicinity (e.g., fish and timber in Southeast and along the coasts, North Slope Borough oil, the Red Dog mine near Kotzebue), many lack both natural resources and economically viable means of participating in a market economy.

3. Governments and Governing Organizations in Rural Alaska

Governing bodies in rural Alaska come in several forms, and the mix is complicated by the presence of the profit-making and non-profit corporations with regional and local areas of influence and service. While communities all over the United States have experimented with new forms of government and services in the past thirty years, most have done so with larger population bases than those found in rural Alaska. An average metropolitan area in the United States may have a city government, several suburbs with their own local governments, one or more county governments, and a variety of metropolitan-area bodies with legislative and executive authority to handle transportation, waste, or education. In addition, numerous non-profit and profit corporations in the metropolitan area may draw their entire funding from the many government entities and exist only to provide government-related services.

The situation is similar in many small Alaska communities, with the difference that only a few hundred or thousand people are served by the array of organizations, rather than hundreds of thousands. Many smaller communities incorporated as second-class cities during the 1950s, '60s and '70s in order to obtain benefits such as state and federal revenue-sharing funds. About sixty-four had incorporated as IRA governments during the 1930s and 1940s, and seven incorporated later.⁵⁸ One source identifies seventy villages organized as both municipalities and IRA councils, about ninety Native villages governed solely by traditional village councils, and about fifty villages incorporated under state law as municipalities.⁵⁹

Other villages maintained a village council government not incorporated under any state or federal legislation. In addition, the ANCSA communities had village profit-making corporations, and regional profit-making corporations. The State also has twelve

⁵⁸ D. CASE, *supra* note 17, at 373. The number of villages with IRA governments now is about 74.

⁵⁹ *Id.*

regional non-profit Native corporations⁶⁰ that serve most of the villages in their respective regions.⁶¹ Numerous non-profit and profit corporations may draw their entire funding from government entities and exist only to provide government-related services. One author has suggested that the complexity of the numerous overlapping governments has helped insure the survival of village Alaska.⁶²

In the dispute resolution context, regional Native non-profit corporations play a particularly important role.⁶³ Most of them contract with the Department of Public Safety to funnel VPSO funds to village councils. All provide a range of social services to residents of member villages, including assistance in establishing tribal governments and tribal courts or councils. Several have played very important roles in encouraging local groups to develop structures that permit dispute resolution within the local community.⁶⁴ At the time of this report many non-profits had at least one person on their staff whose job was, in part, to work with interested villages in developing tribal courts or in using councils to resolve local disputes.

E. Summary

Traditional Native systems for resolving disputes were replaced by the turn of the century in most areas of Alaska by village councils. The village councils often handled primarily disputes related to juveniles and alcohol use. By the 1970s, councils were

⁶⁰ Most of the regional Native non-profit organizations date from the late 1960s and were organized by RurAL CAP (a federally recognized, state-incorporated nonprofit organization) with federal funds made available under the Economic Opportunity Act of 1964. The corporations' purposes generally included assisting the rural poor in becoming self-sufficient and assisting in the land claims settlements. All twelve are recognized in ANCSA as Native organizations. *Id.* at 389-90. At present, they serve as conduits for a wide range of funds and services, including the Village Public Safety Officer program. Two of the non-profits, Central Council Tlingit and Haida and the Tanana Chiefs Conference, are much older. The Central Council Tlingit and Haida was formed in the 1930s as a tribal government in Southeast Alaska, and the Tanana Chiefs Conference dates back to about 1912 as a consortium (but not a governing body) of Athabascan bands in Interior Alaska.

⁶¹ There is no requirement that villages participate in the services offered by the regional non-profit corporations, and a number of villages do not, for varying reasons. In some cases, the non-profit serves villages or people not served by the profit-making corporation.

⁶² *Id.* at 372 (citing T. Morehouse).

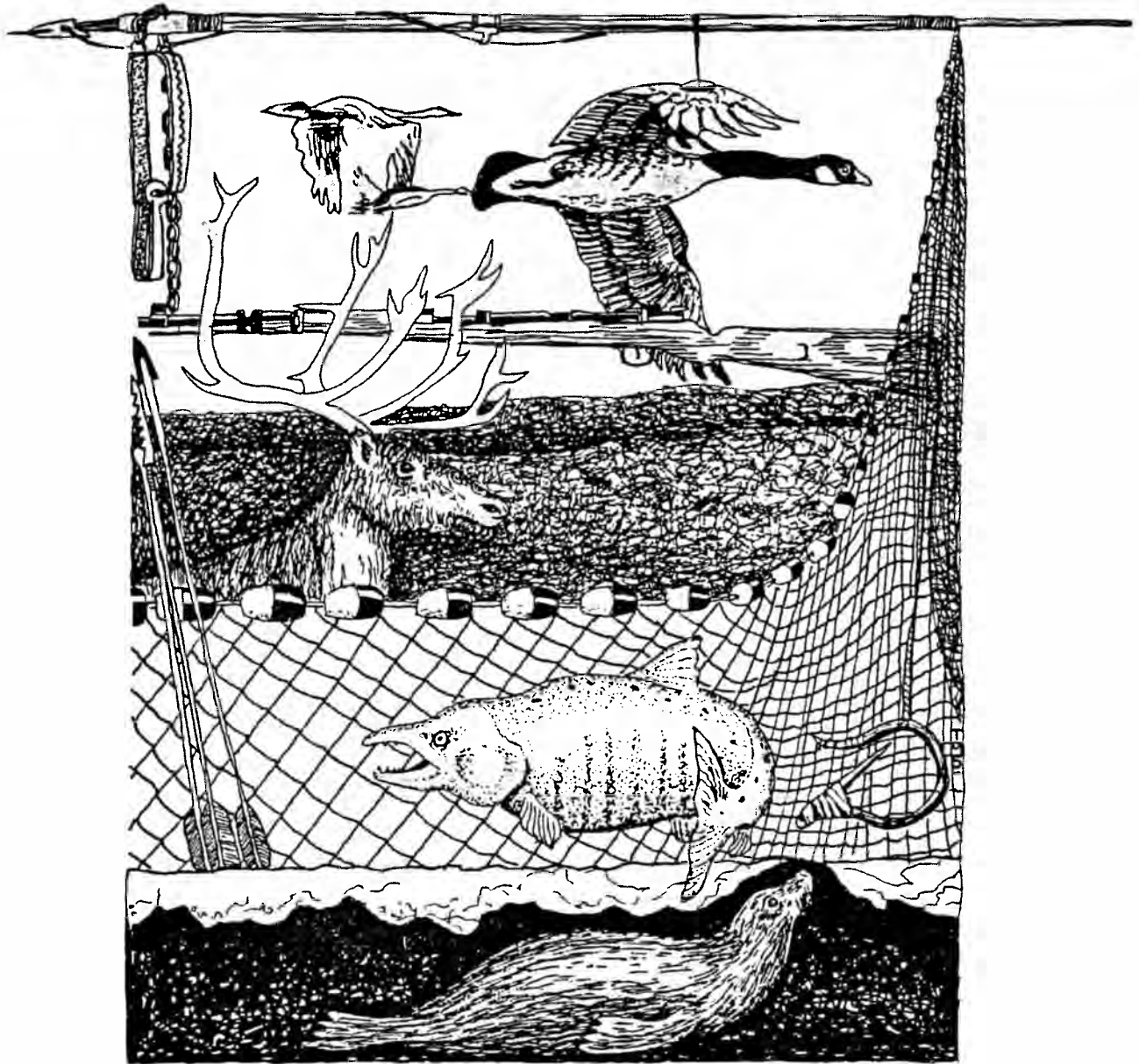
⁶³ Some village non-profit corporations play similar roles, but the regional corporations tend to have more funds and resources.

⁶⁴ See *infra*, Part II, for more detailed discussion of work done by, for example, Association of Village Council Presidents, Tanana Chiefs Conference, Bristol Bay Native Association, and so forth.

beginning either to change substantially their nature and functions, or to fall into disuse. Since about the mid-1980s, many villages have begun to create tribal courts or to return to village council structures for dispute resolution within the village. At present, councils or courts may handle Indian Child Welfare Act cases and other child-related issues, work to control alcohol use, handle a range of minor offenses, or serve as a body to recall and interpret traditional law ways and social structures for the benefit of the village. Assistance in this work is provided by the regional Native non-profit organizations, contracts with individual consultants or nationally based organizations, and attorneys or staff members for the individual village governments.

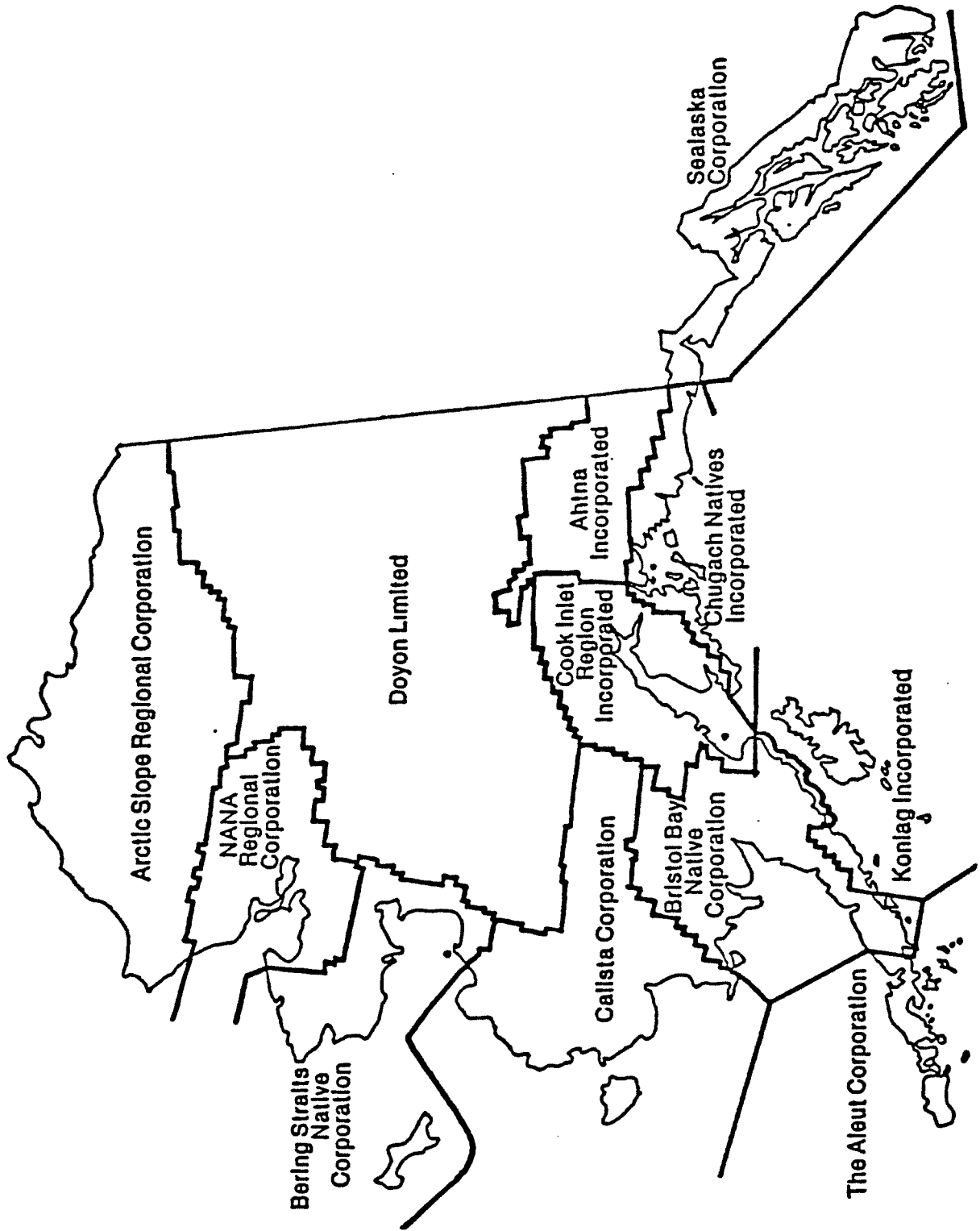
The geography, economy and governmental structures in Alaska all affect the structure of dispute resolution activity in the State. Economically, village governing organizations depend to a large degree on transfer payments from the state and federal governments. Because the Native non-profits often offer services to tribal courts and councils, tribal court and council activity throughout the State is best understood by reference to the twelve different ANCSA regions. Finally, it is important to keep in mind the vast array of governmental structures operating in rural Alaska, from village corporations to second-class cities to traditional and IRA councils, and the important role that the ANCSA non-profit corporations play in supporting village governments.

Alaska Subsistence Resources



*Artwork by Tim Sczawinski
Alaska Department of Fish and Game 1987*

Figure 2
Areas Served by Alaska Native Regional Corporations
Alaska Judicial Council 1993



Part II:

Dispute Resolution Activity by Region



Several types of organizations offer dispute resolution services in Alaska. First, the federal and state governments each operate a court system in Alaska. (The federal government also offers some administrative dispute resolution services and operates the military justice system on military installations in the state.⁶⁵) Both the State of Alaska and the Municipality of Anchorage operate Ombudsman's offices. Tribal councils and tribal courts often resolve disputes in rural areas of the State. Finally, there are a few private organizations offering dispute resolution services. This chapter begins with a general overview of all five types of organizations and the work they do.

The second part of this chapter, Section B, concentrates on the tribal dispute resolution organizations. Section B is divided into twelve subparts corresponding to the twelve ANCSA regions in the State. Each subpart contains a discussion of the major tribal dispute resolution organizations operating in the region; the text is followed by a list of the names and addresses of all the organizations Judicial Council staff are aware of that assist in resolving disputes in the region.

⁶⁵ One example is the Fort Richardson landlord-tenant mediation program.

A. Overview of Dispute Resolution Organizations in Alaska

1. Federal Court System

The federal courts handle serious criminal offenses and complex civil cases, as well as some less serious problems. They have exclusive jurisdiction for the prosecution of federally defined offenses, and interpret federal laws and the United States Constitution. In addition, the federal courts in Alaska have decided several cases involving Native law issues, such as whether Alaska Natives have tribal status and whether Indian country exists in Alaska.⁶⁶

The President of the United States appoints federal judges, who remain in their positions for life. The federal court is represented in Alaska by a district court in Anchorage and a Ninth Circuit Court of Appeals judge who sits on panels that typically hear oral arguments in Seattle and occasionally in Anchorage and San Francisco.

United States Court of Appeals, Ninth Circuit
Judge Andrew Kleinfeld
Federal Bldg. U.S. Courthouse
101 12th Ave. Box 28
Fairbanks, AK 99701-6237
(907) 456-0565

United States District Court
District of Alaska
222 W. 7th Ave. #54
Anchorage, AK 99513-7545
(907) 271-5621

2. Alaska Court System

The State's constitution establishes the supreme court and superior court, and permits the legislature to create other courts. The court of appeals⁶⁷ and the district

⁶⁶ For an overview of some of these federal cases, see *RESOLVING DISPUTES LOCALLY*, *supra* note 11, at Chapter III, and Appendix B for updated information about Indian law.

⁶⁷ The court of appeals, created in 1980, has three judges who handle only appeals in criminal cases.

court⁶⁸ were created by statute. No provision was made for local courts. All courts are under the jurisdiction of the state supreme court, are funded from the state general fund, and are administered through the administrative office of the courts.

Selection of judges for all state courts (with the exception of magistrates and masters, who are hired by the court system) is through a merit selection system. The Judicial Council nominates the best-qualified applicants for each judicial vacancy and the governor appoints from the names submitted. Citizens periodically vote to retain or not retain each judge; the Judicial Council, by law, evaluates each judge and reports its recommendations to the voters before the elections.

The state courts have jurisdiction over all state felonies, state and local misdemeanors and violations (all municipal ordinance violations are filed in state courts), family and probate matters, and civil matters as set out by the state Legislature. The state supreme court, through the Alaska Bar Association, also supervises all attorneys, who hold membership in the state bar association.⁶⁹

In state (and federal) court, most parties are represented by attorneys, although attorneys are not required. Many domestic relations, small claims, and traffic offense cases are handled without lawyers. In federal and state criminal cases, the State provides a lawyer for the defendant at the government's expense if the defendant cannot afford to pay a lawyer.

In both state and federal court, judges perform a range of dispute resolution functions. In civil cases, judges sometimes work with the parties to help them settle the case before trial, and sometimes adjudicate the case at trial or in motion practice. In a criminal case, if the defendant is convicted (whether by a trial, or on a plea of guilty or nolo contendere), the judge imposes a sentence, often after consulting with the attorneys and perhaps also with the presentence report writer and other experts. The victim also may make a statement to the judge at the time of sentencing.

⁶⁸ Created in 1968, the district court is a trial court of limited jurisdiction which handles misdemeanor offenses, small claims cases, and civil cases in amounts up to \$50,000. District court judges and magistrates also may be appointed, especially in smaller communities, to serve as a master for the superior court in children's and family proceedings, and in probate matters. District court judges and magistrates set bail and may conduct some preliminary felony proceedings as well.

⁶⁹ Membership is mandatory to practice in the state courts.

Typically, state and local law enforcement personnel, except in a few larger communities, charge all crimes under state laws, leaving it up to the State's prosecutors to determine whether they will prosecute the offense. The State may conclude that it does not have the resources to enforce some types of offenses in smaller communities and may not prosecute. Thus, rural villages can be left without effective law enforcement, even if they have a VPSO or village police officer.

Judicial officers (including full or part-time magistrates) live in only about fifty locations, or fewer than one-quarter of the State's communities. Residents in the other communities tend to have very infrequent contact with the courts. If an offense is prosecuted, the defendant is almost always transported to the community in which the court is located. This pattern has been established partly due to the lack of facilities for conducting trials in many small communities,⁷⁰ and partly to the high cost and periodic uncertainties of transporting court personnel, prosecutors and public defenders to the rural areas. In some areas, however, judges and law enforcement personnel make concerted efforts to sentence offenders in the community where the offense occurred.

Removal of offenders from the local community may be a boon or a hardship, depending on the circumstances. At times, villages would prefer to have the offender out of the community, but under other circumstances, family members or the community may have equally compelling reasons for wishing the offender to remain. For example, if an offender has seriously harmed a villager, and especially if the offender has a history of disrupting the village, most may be happy to see the offender transported out of the community. On the other hand, if the offense was non-violent, or not directed against village residents, or if for other reasons--economic or personal--villagers regard the offender as less threatening or more desirable, they may not wish to have the offender removed.

Alaska Supreme Court
and Court of Appeals
303 K St.
Anchorage, AK 99501-2084
(907) 264-0629
FAX (907) 276-5808

Other Alaska Courts
(see individual regions
for specific offices)

⁷⁰ In order to conduct a trial, the court must be assured that there are accommodations for the judge, clerk, jury (if any), attorneys, defendant, and any witnesses, as well as rooms capable of serving as courtroom, jury room and judge's chambers.

3. Tribal Courts and Councils

Many rural village governments, especially those organized under the IRA, pass laws governing local residents, oversee enforcement of those laws through a VPSO or village police officer, and resolve disputes arising under local law, sometimes by establishing a separate tribal court but often within the council structure. Many of the villages have BIA-encouraged-and-approved constitutions that broadly state the village government's power to carry out these functions.⁷¹

Many tribal groups assert that the authority of their tribal courts and councils to resolve disputes (and generally to govern the village) flows from the group's inherent sovereign power. Issues of Native sovereignty have been in dispute in Alaska for many years and will likely continue to be so. The Judicial Council does not take any position on the resolution of these issues, which are beyond the scope of this report. However, the Council has recommended that the State and tribes cooperate with tribal courts and councils in bringing justice to rural Alaska. To the extent that local communities and individuals voluntarily take part in the process of dispute resolution offered by a given organization, all parties are well-served.

Tribal councils perform a variety of legislative, executive, and, sometimes, judicial functions. Councils' legislative and executive functions include passing local ordinances, supervising the work of the local village police officer or village public safety officer, applying for state and federal grants and revenue sharing funds, providing social services and administering the daily activities of village government. Councils typically carry out their judicial functions by meeting as a group to consider the appropriate response to a situation brought to the council's attention. Some councils function in the same style and using the same procedures whether they are making an executive decision or resolving a dispute. Others follow a different format when they meet together to resolve disputes than they do when they act as a legislative or executive body. Councils typically are composed of several community members (often elders), who may be elected by residents of the community, or appointed.

Although the most common arrangement in rural Alaska today is for villages to have tribal councils that adjudicate disputes as the need arises, some villages operate

⁷¹ A typical example of this language authorizes the village "to do all things for the common good which it has done or had the right to do in the past." CONST. AND BY-LAWS OF NATIVE VILLAGE OF MINTO art. IV, § 1.

tribal courts that are separate entities from the tribal councils. The forms of these tribal courts vary greatly, as do their ways of conducting business. Tribal courts tend to have their origins in the need for community law enforcement, and in response to the Indian Child Welfare Act. Tribal courts may have one or more judges, although most have more than one judge. When deliberating, the judges tend to confer among themselves in a panel. The emphasis is on reaching a consensus decision rather than each judge casting a separate vote. Judges may be elected or appointed. The courts may hear only one type of case or a wide range of cases.

Some tribal courts overlap so much with councils or courts of elders that it may be difficult to distinguish which group is acting. Others use a variety of possible structures, and may shift from acting as a tribal court, to council, to another variant.⁷² In some communities, such as Sitka, the tribal council, the tribal court and the court of elders co-exist, all serving different functions.

In both tribal courts and councils, participation by the parties in the resolution of a dispute is voluntary, although local social pressures may play a part in this cooperation. The incentives to resolve disputes in tribal courts and councils include the desire to resolve disputes in a certain way⁷³ and the unwillingness to deal with the state or federal courts whether because of cost, convenience or lack of certainty about the outcome. Lawyers may participate in some matters in tribal courts or councils, but typically do not. The process of resolving disputes generally can be characterized as less "adversarial" than the state and federal courts.

Typically, councils conduct their work without the permanent records used by some tribal courts, and may use a wider variety of methods for obtaining information about a case or situation (for example, they may call in people to talk about the situation with less notice, or may rely more on testimony that might be considered "hearsay" in another context). Councils make decisions or take action based on traditional law, local ordinances, and federal law (specifically, ICWA). The councils (and also the tribal courts) may take action based, not in specific law, but in the perceived need for someone

⁷² One example found was a village in western Alaska that had a council and decided to create a tribal court. When the new court is in session, male elders sit in a circle, but in ranking order. The court deals with offenders by calling them in for questioning. Afterwards, the four most senior members of the court confer amongst themselves and then announce the conclusion of the group.

⁷³ For example, to resolve disputes "traditionally," "in an Athabascan (or Inupiat or Yupik) way," or "in our own community." See RESOLVING DISPUTES LOCALLY, *supra* note 11, at 129.

in the community to do something about a given situation. However, tribal courts are subject to the requirements of the Indian Civil Rights Act of 1968 (ICRA).⁷⁴

The action taken by either type of group may include dismissal of the case, counseling of the parties, a request for restitution or payment of a fine, and often, community work service. Both groups also may encourage rehabilitative measures such as substance abuse treatment. In family matters, the courts/councils establish guardianships and adoptions, temporary or long-term foster care, and make recommendations for treatment or counseling for various parties. In ICWA matters, the courts/councils either formally intervene as parties to the state court proceeding, or they sometimes informally advise the state social worker or assistant attorney general of their position. In probate or civil matters, the actions may closely resemble those that would issue from a state or federal court, involving payment of debts, agreement on inheritances and resolution of landlord-tenant disputes.

Neither tribal courts nor councils deal with serious criminal offenses such as murder, sexual assaults, and most felonies, although they may advise state agencies about their perspective on how a particular case or offender should be handled. Many of the tribal organizations serve Natives and non-Natives alike, whether because the non-Natives are in the community and affected by the ordinances adopted by the tribal council or government, or because the non-Natives are involved in family situations or civil law situations (for example, contract, landlord-tenant) handled by the tribal court or council.

Several tribal structures plan to have regional dispute resolution functions. The Central Council Tlingit Haida Indians (with formal status dating from the mid-1930s) co-exists as a central tribal government with a number of IRA councils in Southeast Alaska. Western Alaska Intertribal Court System (Bering Straits area), the Yupiit Nation in southwest Alaska, and the Kodiak Area Native Association also have plans to establish regional courts.

⁷⁴ ICRA is contained within Public Law No. 90-284, the 1968 Civil Rights Act. ICRA imposes certain restrictions in tribal governments similar, but not identical, to those contained in the Bill of Rights and the Fourteenth Amendment of the U.S. Constitution. Requirements applicable to tribal courts include the rights to due process and equal protection of the law [see 25 U.S.C. § 1302(8)]. In addition, ICRA limits the punishment that can be imposed by Indian tribal courts to a term of one year's imprisonment or a fine of \$5,000. 25 U.S.C. § 1302(7).

In addition, a regional appellate court serving southeast communities is planned for the region of the Central Council. The communities will adopt their own ordinances which local courts will apply. In addition, the tribal court may enforce traditional laws in cases brought to it. The Tanana Chiefs Conference has not established a tribal court; however, it has been very active in encouraging tribal court development in its member villages.

4. Other Governmental Dispute Resolution Organizations

Many other state and local government agencies assist citizens in resolving disputes. Among the most widely used are the ombudsman's offices and the Human Rights Commissions. Appendix A lists addresses for the state Ombudsman's offices and the state Human Rights Commission. Addresses for the Municipality of Anchorage's Ombudsman and Human Rights Commission also are in Appendix A.

5. Non-governmental Dispute Resolution Organizations

Relatively few private, non-governmental dispute resolution organizations exist in Alaska. The court system established problem boards in the 1970s as an experiment.⁷⁵ Although none were formally maintained after about 1977, a review of fifty-five villages in 1979 found about half a dozen still operating.⁷⁶ However, since 1987 when the Judicial Council began actively seeking information about dispute resolution in rural areas, no definite examples have been found of problem boards that remain active.

A conciliation organization called PACT has been working with individuals and businesses to conciliate disputes in Barrow since 1989. One of its objectives is to bring information about conciliation to other communities. It conducted a training program in Emmonak⁷⁷ in 1992 and plans to conduct others. PACT handles mainly civil cases at present but has trained high school students and staff in Barrow in conciliation techniques and is exploring, with the court system, the possibility of victim-offender mediation in criminal cases.

⁷⁵ J. MARQUEZ AND D. SERDAHELY, *supra* note 35, at 10.

⁷⁶ J. ANGELL, *supra* note 29, at 101.

⁷⁷ Interestingly, Emmonak served as the site of the original National Science Foundation pilot program for conciliation in 1974 and subsequently participated in the court system's experimental program as well. See J. MARQUEZ AND D. SERDAHELY, *supra* note 35. Emmonak has had a state magistrate for years.

Other organizations offer dispute resolution services (typically mediation, conciliation and arbitration) to urban communities. Some charge a fee for their services; some do not. Some use volunteer neutrals,⁷⁸ and some employ paid neutrals. For example, the Anchorage Youth Court uses volunteer student judges to adjudicate criminal cases against juveniles and volunteer student mediators to mediate disputes between juveniles. The Better Business Bureau of Alaska offers mediation and arbitration services to consumers and businesses for a set fee.

Other agency personnel, such as social workers and VPSOs, resolve disputes in the course of their work, although this is not their primary function. Some of the dispute resolution takes place wholly within the context of the individual employee's job. However, many of the personnel employed by state and local governmental agencies have worked very closely with councils and tribal courts, both in the context of official agency policy⁷⁹ and informally, to resolve disputes. These interactions between tribal councils and courts and governmental agencies are described in Part III, below.

B. Catalogue of Rural Dispute Resolution Activity by Regions

1. North Slope

There are four main organizations which play roles in the North Slope region's government, revenue collection and service delivery. The Arctic Slope Native Association (ASNA), formed in 1966, is the Native non-profit corporation serving the North Slope region.⁸⁰ The Arctic Slope Regional Corporation (ASRC) is the Native for-

⁷⁸ "Neutral" is the term commonly used to refer to the person like the mediator or arbitrator who acts as the neutral party in a dispute between two or more other persons. The neutral may use a wide variety of techniques in helping to resolve a dispute, ranging from listening to both parties and then making a decision for the parties (typically one that takes both sets of needs and interests into account) to making suggestions and giving direction to the parties, to simply listening and encouraging the parties to fairly resolve the dispute between themselves.

⁷⁹ The primary example of an official policy is the State-Tribal Indian Child Welfare Act agreement signed in 1990 by the governor's office and tribal representatives from nineteen groups. The Agreement is discussed *infra* at pages 102-103 and accompanying notes.

⁸⁰ MINERALS MANAGEMENT SERVICE, A DESCRIPTION OF THE SOCIOECONOMICS OF THE NORTH SLOPE BOROUGH 254 (Technical Report No. 85) (Sept. 1983).

profit corporation comprised of the eight communities of the North Slope.⁸¹ The Inupiat Community of the Arctic Slope (ICAS) is a permanent Inupiat-controlled institution to which the federal government has an ongoing trust responsibility.⁸² Finally, the state-chartered North Slope Borough (incorporated in 1972) provides a legal structure unique among the twelve regions, capturing Prudhoe Bay oil revenues, asserting local control over land use, and providing education and other key public services, including law enforcement.⁸³ Each village has two full-time law enforcement officers with training equivalent to the state Troopers, and Barrow has a twenty-seven member police force, and an extensive borough government. Barrow also has a superior court judge and full-time magistrate paid by the State.

Historically, the Inupiat of the North Slope lived in extended families that provided social structure. Village councils developed around the turn of the century under the influence of school teachers and missionaries, and later under the charter of the IRA.⁸⁴ With the advent of the North Slope Borough and oil revenues, most of the communities' attention focussed on managing resources and building basic amenities, including schools and water and sewer systems. Few of the region's organizations have been active in dispute resolution until recently.

Recent developments, described below, include the planned Native Village of Barrow's tribal court, services offered by the Inupiat Community of the Arctic Slope, and the activities of the Arctic Slope Native Association. Two other organizations providing dispute resolution are PACT, a multicultural conciliation organization serving residents of Barrow, and the Alaska Eskimo Whaling Commission, created in 1977 to represent the whale management interests of Native whaling communities nationally and internationally.⁸⁵

⁸¹ The communities are: Anaktuvuk Pass, Atkasuk, Barrow, Kaktovik, Nuiqsut, Point Hope, Point Lay, and Wainwright.

⁸² *Id.* at 268.

⁸³ *Id.* at 255.

⁸⁴ *Id.* at 254.

⁸⁵ *Id.* at 269.

a. PACT

PACT, a private non-profit membership organization, offers dispute resolution services in Barrow.⁸⁶ Individuals who request PACT's services can conciliate disputes with the assistance of trained volunteers. The PACT process blends the urban, community boards approach and the Northwest Intertribal Peacemakers approach. PACT's services range from informal resolution by a case developer who serves as a "go-between," to a more structured session in which a panel of trained volunteers assists the disputants to reach a resolution. PACT also will conduct conciliation-process trainings both in Barrow and other interested communities.

b. Native Village of Barrow Tribal Court

PACT's services are available to all community members, including Barrow's Inupiat residents. Some Inupiaq, however, may prefer to use the services of the Native Village of Barrow's (NVOB)⁸⁷ tribal court which now is being organized, either because their problems are uniquely Native or because they feel more comfortable in a Native forum. The NVOB council has deliberated subsistence issues, established an employment rights office to see that Native people are hired with federal funds, and recently has begun drafting a tribal court ordinance. A primary responsibility of the court will be to intervene in ICWA cases, with focus on follow-up.⁸⁸ Other family matters, including divorce, marriage,⁸⁹ adoptions, and counseling, and any other tribal issues likely will be handled by the court.

The NVOB court also may handle some criminal matters, in cooperation with the state court. NVOB hopes to "work out a system that benefits both the communities and the State." Innovative sentencing and rehabilitation of tribal members will be goals of the tribal court. In the organizational phase, NVOB is looking to tribal courts in other

⁸⁶ Services are offered only in Barrow, not the surrounding villages, because the PACT conciliation process depends upon face-to-face meetings between disputants and conciliators. The Council evaluated PACT in detail in its earlier report. See *RESOLVING DISPUTES LOCALLY*, *supra* note 11, at 111.

⁸⁷ Native Village of Barrow is the Barrow IRA community.

⁸⁸ NVOB receives notice under ICWA of cases in litigation. An executive director and other part-time staff handle those cases.

⁸⁹ The Native Village of Barrow Tribal Court likely will work with the state to have tribal judges designated as marriage commissioners so that marriages performed by tribal judges can be considered legal under State law.

PL-280 states, notably Washington, for guidance. The Northwest Intertribal Court System's cooperative pact with the Washington state government is a model NVOB hopes to follow.

c. Inupiat Community of the Arctic Slope

The Inupiat Community of the Arctic Slope (ICAS) functions as a conduit for federal program funds, contracting through the NSB to provide social and educational services to provide economic development programs.⁹⁰ ICAS is a regional IRA council run by a Joint Tribal Council composed of eight village tribal leaders in the Arctic Slope. One representative from each village and five Barrow representatives comprise the council's membership.

After 1975, ICAS was able to take advantage of new federal funds connected with the Indian Self-Determination and Education Assistance Act.⁹¹ From 1976 to 1982 ICAS administered approximately \$1.5 million in direct, and \$1.5 million in indirect, grants. Mismanagement eventually led to debt which the current president has focussed on retiring. Despite its debt load, ICAS offers its member communities various services including scholarship grants, and clothing or work-related tools for members in need. Revenue from a state-granted bingo license allows ICAS to send council members to state and regional meetings at which important subsistence matters are discussed, and permits the president to travel to negotiate ICAS's debt reduction.

ICAS also offers its members dispute resolution services. Most of its work in this area involves ICWA cases. ICAS intervenes, upon request of the family, in any of the ICWA cases of which it receives notice, including those involving children living out of state. ICAS also helps resolve disputes over Native allotments.

d. Arctic Slope Native Association

The Arctic Slope Native Association (ASNA) was formed in 1966 to advocate for the passage of ANCSA and the establishment of the Arctic Slope Regional Corporation and the North Slope Borough. ANSA met these goals, after which followed a long period of inactivity. In 1991, the ASNA board of directors reorganized and revitalized ASNA with a new focus: to bring local control of federally funded programs and

⁹⁰ MINERALS MANAGEMENT SERVICE, *supra* note 80, at 255.

⁹¹ *Id.*

services to the Inupiat people of the North Slope. Now in its first year of PL 93-638 contracting,⁹² ASNA is working principally with Indian Child Welfare Act cases, including case planning and management with DFYS social workers. ASNA's director has said that the organization also will serve as staff for the six tribal governments, and is prepared to implement tribal policy and administer programs the communities want to establish.

e. Arctic Slope Elders' Council

The Arctic Slope Elders' Council (ASNA) worked with the Inupiat History, Language, and Culture Commission to assist the North Slope Elders' Conference in forming the Arctic Slope Elders' Council at the November, 1992 Elders' Conference. The Elders' Council is inspired by and modeled after the Kotzebue-region elders' councils.⁹³ The Council will provide advice, direction, mediation and assistance to individuals, organizations, businesses and government agencies in the Arctic Slope region.

★ Regional Organization

Alaska Eskimo Whaling Commission *Phone:* (907) 852-2392
Box 570
Barrow, AK 99723

Arctic Slope Native Association *Contact:* Roberta Quintevall
P.O. Box 1232 *Phone:* (907) 852-2762
Barrow, AK 99723 *Fax:* (907) 852-2763

Inupiat Community *Contact:* Rex Okakok
of the Arctic Slope *Phone:* (907) 852-0250
Box 69
Barrow, AK 99723

⁹² PL 93-638, the 1975 Indian Self-Determination Act, provides for federal grants to tribal governments to improve tribal government or to improve the capacity of tribal organizations to enter into contracts under the Self-Determination Act. These grants commonly are known as "104 grants" because they are authorized under section 104 of the Act. D. CASE, *supra* note 17, at 434 n.277. Section 104 grants are administered by the BIA's Tribal Operations Program. *Id.* at 414. Several of the tribal organizations described in this report have received "104 grants" for dispute resolution services.

⁹³ The Kotzebue-region elders' councils are described below at section B(2).

★ **Local Organizations**

Native Village of Barrow
P.O. Box 1139
Barrow, AK 99723

Contact: Arnold Brower, Jr.

PACT
P.O. Box 749
Barrow, AK 99723

Contact: Deborah Hildebrand
Phone: (907) 852-7228

Point Hope Tribal Court
P.O. Box 91
Pt. Hope, AK 99766

Contact: Ernie Frankson

★ **Alaska Court System**

Superior Court Judge Michael Jeffery
Magistrate Dan Cadra
Deputy Mag. Jeri Cleveland
Box 2700
Barrow, AK 99723-2700
(907) 852-4800
FAX (907) 852-4801

Magistrate Connie Oomittuk
Box 51
Point Hope, AK 99766-0051
(907) 368-2912
(907) 368-2915 FAX

2. Kotzebue Sound

The Northwest Arctic Borough includes Kotzebue as its largest community, and ten other villages situated either on the northwest arctic coast, or along the Kobuk or Noatak Rivers. The residents are Inupiat Eskimo, traditionally differing from the more northern Inupiat in their subsistence activities and in some aspects of their culture. Whales did not come close enough to the shore to permit whaling, so the coastal Inupiat hunted other sea mammals. Interior Inupiat relied more on caribou. This caused differences in festivals as well as the general patterns of annual activities. NANA, the profit-making corporation, includes Kotzebue and ten villages.⁹⁴ The Red Dog Mine, developed by NANA and operational for the past three years, provides much of the region's private economic activity at present through extraction of zinc, lead and silver. The regional Native non-profit corporation is Maniilaq,⁹⁵ which "provides workshops aimed at improving the application of traditional justice concepts and village control of local offenders by sharing the results of staff examination of tribal courts."⁹⁶ Maniilaq also employs a tribal operations officer to assist villages in researching and writing grants, and to provide technical assistance.

a. Elders' Councils

Dispute resolution in the area is shaped in part by the Spirit movement expressed through Elders' Councils and the Inupiat Ilitqusiak coordinated by the Maniilaq Association. Elders' Councils often resolve disputes, as well as providing guidance to communities about social issues. At the sub-regional level, the Elders' Councils have met to consider how local communities can best stop alcohol importation into the villages. State Troopers were invited to some recent meetings and asked about Troopers' policies, and reasons for non-response to reports of importation. Local Elders' Council members often act in response to substance abuse issues, for example, by establishing

⁹⁴ The villages are Ambler, Buckland, Deering, Kiana, Kivalina, Kobuk, Noatak, Noorvik, Selawik, and Shungnak.

⁹⁵ Maniilaq is unique among regional nonprofits because it is incorporated to serve both Natives and non-Natives. D. CASE, *supra* note 17, at 401. The name "Maniilaq" means "no money" (*i.e.*, non-profit) and also is the name of a traditional nineteenth-century Inupiaq prophet who lived in the area. *Id.* at 397. Predecessor organizations include Inupiat Paitot (1961), Northwest Alaska Native Association (1963), Kikiktagruk Area Community Development Corporation, and Kotzebue Area Health Corporation. *Id.*

⁹⁶ *Id.* at 401.

a team to work with persons abusing inhalants. Family issues are a principal concern of the Elders' Councils, whose members talk with families affected by abuse or violence, and advocate to state agencies for keeping children in extended families or in the region.

b. Council Dispute Resolution Activity

Kotzebue and several villages in the area have strong IRA councils that take an active role in ICWA cases and support formation of tribal courts. The impetus to establish courts comes from the villagers' desire to formalize the village council's century-old dispute resolution function, in which the council members gathered in a special meeting to speak to an offender about his or her actions. Villagers think that this system worked well, but that establishing formal courts would better allow them to seek back-up from the State, funding, and recognition. They perceive tribal courts as a means for dealing with minor problems in the villages, and for helping the elders by assigning offenders to perform community work service for them. All of the communities in this region have some sort of tribal court or council that participates in justice or dispute resolution activities.

Kivalina, Kotzebue and Selawik have active councils that have formed working relationships with the state court system in Kotzebue. The council in Selawik has accepted referrals from the state court to monitor criminal offenders released from prison. In Kivalina, the council recently asked the Kotzebue superior court judge for permission to work with offenders in a property case; the judge ordered the offenders to comply with conditions set by the council.⁹⁷ At a recent sentencing hearing in Buckland, the offender agreed to be sentenced in the presence of the elders, some of the teachers and school administrators, and assembled junior and senior high students. The elders spoke to the offender in the framework of the state court sentencing.⁹⁸

⁹⁷ Anchorage Daily News, November 11, 1992, at B5, col. 1. In this particular case, the judge received the council's request after he had completed sentencing, and so he had to modify his sentence under the court's Rule of Criminal Procedure 35(a). The judge reports that more often he and other judges in his judicial district hear from and encourage input from the councils before sentencing, so that their ideas and offers of assistance can help structure the sentence imposed.

⁹⁸ The judge commented that he often requires the offender to meet with the elders in his or her village and discuss the offense; an apology is not required, but the meeting is.

c. Planned Tribal Courts

In Noatak, the tribal council is active in ICWA matters. The villages of Selawik and Kiana both have had tribal courts in the past and are working to reestablish them. In particular, the village of Kiana plans to apply for an ICWA grant from the BIA under which it will reassess and reestablish its tribal court.⁹⁹ The new court could be functioning by mid-1993. The Kiana council currently handles child welfare matters.

Kiana's original court was established in 1986, but high turnover and a lack of training for new judges eventually led to its demise. The Kiana court originally was comprised of council members trained as judges. Later, the council appointed specially trained judges to the court. According to one village leader, the impetus for establishing the tribal court came from a desire to return to the days when strong unwritten laws, enforced by a council, governed the villagers' responsibilities to the community, to their families, and to each other. When people transgressed local standards, they were made to answer to the village. The council and the village elders took care of the social order. This desire for a return to local control grew out of villagers' perceptions that state laws were sometimes ineffective in controlling people. It was in an effort to reclaim its governing powers, including the power of social control, that Kiana first established a tribal court.

★ Regional Organization

Maniilaq Association
Box 256
Kotzebue, AK 99572

Contact: Bill Bailey (Tribal Operations)
Phone: (907) 442-3311

★ Local Organizations

Ambler Traditional Council
P.O. Box 47
Ambler, AK 99786

Contact: Arthur Douglas (President)
Phone: (907) 445-2131

Buckland IRA Council
General Delivery
Buckland, AK 99727

Contact: Percy Ballot (President)
Phone: (907) 494-2121

⁹⁹ ICWA authorizes a variety of grants to Indian tribes to improve their response to the social needs of their families and children. See 25 U.S.C.A. §§ 1932-1934.

Deering IRA Council
General Delivery
Deering, AK 99736

Contact: Emerson Moto (President)
Phone: (907) 363-2148

Kiana Traditional Council
P.O. Box 69
Kiana, AK 99749

Contact: Vera Atoruk (Administrator)
Phone: (907) 475-2109

Kivalina IRA Council
P.O. Box 50051
Kivalina, AK 99750

Contact: David Swan (President)
Phone: (907) 645-2153

Kobuk Traditional Council
General Delivery
Kobuk, AK 99751

Contact: Rosa Horner (President)

Kotzebue IRA Council
P.O. Box 296
Kotzebue, AK 99752

Contact: Pete Schaeffer (Chairman)
Phone: (907) 442-3467

Noatak IRA Council
P.O. Box 89
Noatak, AK 99761

Contact: Ricky Ashby (President)
Phone: (907) 485-2173

Noorvik IRA Council
P.O. Box 71
Noorvik, AK 99763

Contact: Gordon Newlin (President)
Phone: (907) 636-2144

Selawik IRA Council
P.O. Box 59
Selawik, AK 99770

Contact: Allen Ticket (President)
Phone: (907) 484-2225

Shungnak IRA Council
P.O. Box 53
Shungnak, AK

Contact: MacAuthur Tickett (President)
Phone: (907) 437-2163

★ **Alaska Court System**

Magistrate Rudy Hecker
Box 170
Kiana, AK 99749-0170
(907) 475-2167
FAX (907) 475-2169

Superior Court Judge Richard Erlich
Magistrate James Benedetto
Deputy Mag. May N. Pannick
Box 317
Kotzebue, AK 99752-0317
(907) 442-3208
FAX (907) 442-3552

3. Bering Straits Region

Nome serves as the hub for twenty communities¹⁰⁰ in the Bering Straits area. The Bering Straits Native Corporation is the regional Native profit corporation and Kawerak is the area's Native non-profit. The Inupiat population inhabiting this area structured its traditional government in extended families. Siberian Yupik peoples live in the St. Lawrence Island villages of Gambell and Savoonga, and also structured themselves as extended families. Village councils developed around the turn of the century in response to contact with western cultures.

Although little information about tribal court and village council dispute resolution activity has been available until recently, Kawerak has been actively building a strong Indian Child Welfare Program for the past nine years. The increased dispute resolution activity in the regions' communities is a direct result of Kawerak's efforts. Fifteen of the villages have adopted tribal court ordinances; in eight, a court of elders also is established by ordinance. In addition, an Inter-Tribal Court is planned to serve the region. The primary activity focusses on children's and family matters,¹⁰¹ especially ICWA. Most villages have ordinances governing probate and other matters as well.

a. Western Alaska Tribal Council Activity

The Bering Straits villages, and their regional representatives, have taken a strong stand on keeping Native children in Native families. In February 1989, the Western Alaska Tribal Council, an association made up of the regional village council presidents, announced a new policy to intervene in all state Indian Child Welfare Act cases involving member children, including child in need of aid and adoption proceedings, subject to the approval of the individual village council concerned.¹⁰² In January 1990,

¹⁰⁰ The Bering Straits Native Corporation includes Brevig Mission, Council, Elim, Gambell, Golovin, Inalik/Diomedes, King Island, Koyuk, Mary's Igloo, Nome, Saint Michael, Savoonga, Shaktoolik, Shishmaref, Solomon, Stebbins, Teller, Unalakleet, Wales, and White Mountain.

¹⁰¹ Adoption services are a vital element of the Kawerak program. Through a grant from the Administration for Native Americans, Kawerak received the funds and personnel to become the first (and at present, only) licensed Native adoption agency in Alaska. The Kawerak Adoption Agency offers a full range of services, with no cost to the adoptive family except the home study.

¹⁰² The head of Kawerak's Indian Child Welfare program estimates that the organization intervenes in over 100 ICWA cases each year. Before the non-profit's change in policy regarding children's cases, (continued...)

the Western Alaska Tribal Council declared that Native children have the right to be raised in Native homes. The Council also declared that the natural parents and the tribe have an interest in the child's placement, and that the interests of both parties should be balanced when the placement decision is made. A subsequent policy statement ratified by the Council in April 1992 set out Kawerak's responsibilities in seeing that the member children's rights are met.

b. Villages with Tribal Court Ordinances

Fifteen Bering Straits villages have adopted tribal court ordinances.¹⁰³ Generally, the ordinances provide that the village council shall sit as a court to hear matters arising under the village ordinances and traditional law. The tribal court ordinances in eight villages provide for a court of elders to advise the tribal court on traditional law and custom. The villages also have enacted ordinances providing for their future participation in the Western Alaska Inter-Tribal Court; the Inter-Tribal Court is not as yet formally established. Most of the tribal court activity in the Bering Straits region centers around tribal certification of traditional adoptions and occasional action on ICWA cases.

In addition to the tribal court ordinances, the Kawerak villages have adopted a number of substantive ordinances. Seven villages have elections ordinances; sixteen have membership ordinances; and one each has probate and marine mammal codes. In the area of children's matters, seventeen villages have children's codes; fifteen have ordinances governing foster care licensing; and seven have adoption ordinances.¹⁰⁴ Kawerak staff urge area villages to adopt tribally defined and tribally drafted policy, especially as it affects child members, to guide the agency as it works with the councils and courts.

¹⁰²(...continued)

villages were more selective about the cases they became involved in, often waiting to intervene until late in the proceeding. By that time, the villages had effectively lost the chance to influence placement decisions. Kawerak's change in policy reflects the region-wide belief that children are the Native culture's most valuable resource.

¹⁰³ The fifteen villages are: Brevig Mission, Diomedea, Gambell, Golovin, King Island, Koyuk, Mary's Igloo, Nome Eskimo Community, St. Michael, Shaktoolik, Shishmaref, Stebbins, Teller, Unalakleet, Wales and White Mountain.

¹⁰⁴ Ordinances passed by tribes in Bering Straits region as of November 11, 1992, according to Kawerak Tribal Affairs.

Village councils sitting as courts in the Bering Straits region routinely discuss ICWA cases and certify traditional adoptions.¹⁰⁵ Three cases highlight the range of issues handled and solutions developed in the area's tribal courts. In two of these cases, children were born in other states.¹⁰⁶ In the third, slightly older children were orphaned, and the extended family wanted villagers, not the State, to make decisions about the children's welfare.

Both of the cases with out-of-state children ended in adoptions that reflected uniquely Native considerations. According to Kawerak personnel, traditional adoptions occur without severing the ties to biological parents; typically, the biological parents retain important traditional and ceremonial duties toward the child. The adoptive family's extended family is enlarged to include the adopted child's biological family, creating new kinship obligations on all sides. This practice contrasts greatly with western adoptions, in which adoption typically severs all ties between the biological family and child and creates an exclusive relationship between the adoptive family and the child.

c. Teller and Gambell Tribal Court Activity

The work of the Teller and Gambell Tribal Courts exemplifies the activity of the courts in this region. The Teller Tribal Court serves the approximately 230 Inupiat who

¹⁰⁵ A state regulation promulgated by the state department of health and social services authorizes and directs the state registrar to issue a new birth certificate upon receiving proof that an Indian child has been adopted under tribal custom. *See* 7 AAC 5.700(b) (1992). In practice, the state Bureau of Vital Statistics will not accept information about the adoption sent by a tribal court, but will accept it directly from the village council (for example, in the form of a resolution). The practice among Bering Straits villages is to have the tribal court certify the adoption after the new birth certificate is received by the adoptive parents.

¹⁰⁶ The first case involved an Indian child born in Oregon. Upon receiving notice of the proposed adoption under ICWA, Kawerak began working with the Oregon agency to arrange for adoption into the child's ancestral village. An Oregon court transferred jurisdiction of the case to the tribal court in Alaska. Because the birth mother wanted the child to grow up in an urban setting, Kawerak found a family from the village that was living in an urban area. The adoptive parents have encouraged continuing contact between the birth mother and the child. (The Oregon Bureau of Vital Statistics issued the substitute birth certificate.) The second case involved a second-generation Alaska Native child born in Ohio and taken into state custody there. Kawerak found extended family members of the birth mother's family who agreed to adopt the child, with the mother's consent. After the adoptive mother took the child, however, the birth mother changed her mind and asked to have the child back. The tribal court held an all-day custody hearing with the birth mother present. At the end of the hearing, the judges gave the parties 48 hours to come to an agreement among themselves. The parties decided that the adoptive family would keep the child, again with the understanding that the birth mother would maintain ties.

are enrolled members of the village of Teller and nearby Mary's Igloo. Non-Natives living in the community rely on the state court for resolution of justice problems.

Teller's court first was established in January 1988. The village started its tribal court in the hope that it would be a vehicle to help young people in trouble with the State or school district. Currently, the court wants to work with the school district to discipline students in traditional ways, for example having a student shovel out an elder's home for a week, rather than have the district suspend students from school. As one village leader put it, it is better that students are disciplined in traditional ways than that they miss the opportunity for an education. The court also plans to coordinate efforts with the state social worker so the State knows "we're there to help our children."

A one-time BIA grant of \$41,000 helped the community organize the court initially. Under the grant, two consultants gave two three-day training sessions in the village, which the whole community, from elders to students, attended. Mock hearings were featured in one training session.

The village's tribal court ordinance allows the court to hear name changes, divorces, child custody cases, and other tribal matters; however, as of January, 1993, the court only had handled adoption cases. The seven members of the council serve as judges on the court. The council president acts as chief judge. Judges are paid the same stipend they receive for attending council meetings. Bingo revenues fund court operation. Discussion is underway about having village elders advise the court. A regional appellate court may form in early 1993.

The village of Teller has both traditional and municipal forms of government. Tension between the two governments has hampered the court's effectiveness in the past; however, village leaders are trying to reach an agreement that will allow the village's VPSO, a city employee, to refer cases to the tribal court.

Although the village of Gambell's tribal court is no longer functioning, villagers hope to revive it with the help of a 1993 BIA grant. Currently, Gambell's IRA council handles all decision-making that formerly was performed by the village's tribal court. Ordinances are being rewritten under the supervision of a tribal court coordinator.

★ **Regional Organizations**

Kawerak, Inc. Tribal Affairs Box 948 Nome, AK 99762	<i>Contact:</i> Mary Miller (Director, Tribal Affairs) <i>Phone:</i> (907) 443-5231 <i>Fax:</i> (907) 443-3708
--	---

★ **Local Organizations**

These are the fifteen village councils that have adopted tribal court ordinances, plus two councils:

Brevig Mission Traditional Council General Delivery Brevig Mission, AK 99785	<i>Contact:</i> Annie Olanna Conger (President) <i>Phone:</i> (907) 642-4301 <i>Fax:</i> (907) 642-4311
--	---

Chinik Eskimo Community General Delivery Golovin, AK 99762	<i>Contact:</i> Bobby Amarok (President) <i>Phone:</i> (907) 443-3251 <i>Fax:</i> (907) 779-3261
--	--

Native Village of Diomed Box 7099 Diomed, AK 99762	<i>Contact:</i> Orville Ahkinga (President) <i>Phone:</i> (907) 686-2175 <i>Fax:</i> (907) 686-3061
--	---

Native Village of Gambell Box 99 Gambell, AK 99742	<i>Contact:</i> Gerrard Koonooka (President) <i>Phone:</i> (907) 985-5346 <i>Fax:</i> (907) 985-5014
--	--

King Island Native Community Box 992 Nome, AK 99762	<i>Contact:</i> Marilyn Irelan (Chief) <i>Phone:</i> (907) 443-5494
---	--

Native Village of Koyuk Box 30 Koyuk, AK 99753	<i>Contact:</i> Roy Otton (President) <i>Phone:</i> (907) 963-3651 <i>Fax:</i> (907) 963-2353
--	---

Mary's Igloo Traditional Council Box 572 Teller, AK 99778	<i>Contact:</i> Dan Topkok (President) <i>Phone:</i> No phone
---	--

Nome Eskimo Community Box 1090 Nome, AK 99762	<i>Contact:</i> Andy Miller, Jr. (President) <i>Phone:</i> (907) 443-2246 <i>Fax:</i> (907) 443-3539
---	--

Native Village of St. Michael
General Delivery
St. Michael, AK 99659

Contact: Pius Washington (President)
Phone: (907) 923-3222
Fax: (907) 923-3142

Native Village of Savoonga
Box 129
Savoonga, AK 99769

Contact: Kenneth Kingeekuk (President)
Phone: (907) 984-6414
Fax: (907) 984-6027

Native Village of Shaktoolik
Box 100
Shaktoolik, AK 99771

Contact: Edgar Jackson (President)
Phone: (907) 955-3701
Fax: (907) 955-3151

Native Village of Shismaref
P.O. Box 72110
Shishmaref, AK 99772

Contact: Stella Weyiouanna (President)
Phone: (907) 649-3381
Fax: (907) 642-4014

Stebbins Community Association
Box 2
Stebbins, AK 99671

Contact: Fred Pete (President)
Phone: (907) 934-3561
Fax: (907) 934-3560

Native Village of Teller
Box 544
Teller, AK 99778

Contact: Chuck Okbaok (President)
Phone: (907) 642-3381
Fax: (907) 642-4014

Native Village of Unalakleet
Box 70
Unalakleet, AK 99684

Contact: Stanton Katchatag (President)
Phone: (907) 624-3013
Fax: (907) 623-3099

Native Village of Wales
Box 549
Wales, AK 99783

Contact: Luther Komonaseak (President)
Phone: (907) 664-3511
Fax: (907) 664-3541

Native Village of White Mountain
Box 84082
White Mountain, AK 99784

Contact: Lincoln Simon (President)
Phone: (907) 636-3651
Fax: (907) 638-3421

★ Alaska Court System

Magistrate Janet I. Henry
[also serves Kobuk (978-2217)
and Shungnak (437-2161)]
Box 86028
Ambler, AK 99786
(907) 445-2137
FAX (907) 445-2136

Magistrate Rudy Hecker
[also serves Noorvik and Selawik]
Box 170
Kiana, AK 99749-0170
(907) 475-2167
FAX (907) 475-2169

Superior Court Judge Charles R. Tunley
Magistrate Bradley Gater
Deputy Magistrate Janet M. Tobuk
Box 1110
Nome, AK 99762-1110
(907) 443-5216
FAX (907) 443-2192

Magistrate (vacant)
Box 234
Gambell/Savoonga, AK 99769-0234
(907) 984-6011
FAX (907) 984-6927

Magistrate (vacant)
Box 185
Unalakleet, AK 99684-0185
(907) 624-3015
FAX (907) 624-3118

4. Interior Alaska

The central area of Alaska, served by Doyon, Ltd. as the regional Native profit corporation and Tanana Chiefs Conference (TCC) as the regional Native non-profit corporation, includes the largest land area of any of the corporations.¹⁰⁷ Historically, Athabascan Indian bands populated the Yukon, Tanana and other river drainages, governing themselves in small groups. Their transitional governments took the form of village councils, sometimes with elected members. Where Caucasian settlers or government administrators encouraged development of new forms of government, the newly elected village councils and more traditional governments with chiefs sometimes co-existed. The Tanana Chiefs Conference is one of the oldest Native organizations in the State, dating back to 1912.

¹⁰⁷ Villages that have formed corporations in the Doyon region are: Alatna, Allakalet, Anvik, Beaver, Birch Creek, Chalkyitsik, Circle, Dot Lake, Eagle, Evansville/Bettles, Fort Yukon, Galena, Grayling, Healy Lake, Holy Cross, Hughes, Huslia, Kaltag, Koyukuk, Manley Hot Springs, McGrath, Minto, Nenana, Nikolai, Northway, Nulato, Rampart, Ruby, Shageluk, Stevens Village, Takotna, Tanacross, Tanana and Tetlin. TCC serves these and the following Interior communities: Arctic Village, Canyon Village, Fairbanks, Lake Minchumina, Medfra, Telida, Tok and Wiseman.

a. Tanana Chiefs Conference Programs

Tanana Chiefs Conference (TCC) has been extremely active in assisting its member villages to set up courts and is a leader in the tribal court movement. TCC's Tribal Government Services department has long employed staff to work on tribal court matters, and now has a full-time person working exclusively to establish and develop tribal courts. TCC encourages tribal courts to work with a range of cases from ICWA and other family matters, to quasi-criminal matters. The non-profit expects significantly more active tribal courts over the next few years as a result of its full-time staffing and many villagers' keen interest in tribal courts.

TCC publishes a series of tribal government handbooks. The TRIBAL COURT HANDBOOK, now in its second edition, describes traditional Athabascan justice, principles of jurisdiction, jurisdiction in Alaska, the Indian Civil Rights Act, types of tribal courts, tribal court procedures, appellate procedure, enforcement of court orders, and court management. The HANDBOOK also contains numerous sample forms. Another volume in the series, the TRIBAL ORDINANCE HANDBOOK discusses tribal legislative powers, how to write ordinances, the procedure for passing or repealing ordinances, sample resolutions and sample ordinances.¹⁰⁸

Several of the state's most highly developed tribal courts operate in the Interior and TCC areas. A total of five of the villages served by TCC (Nenana, Tanacross, Huslia, Minto, and Northway) operate tribal courts that receive assistance from TCC. In villages without formal tribal courts (for example, Chalkyitsik, Hughes and Eagle), councils sit as courts to resolve disputes, or appoint a judge or judges to hear selected cases. Many are involved in ICWA cases.

b. Minto Tribal Court

The Minto tribal court was organized initially around 1940 after the Indian Reorganization Act was made applicable to Alaska. The court fell into disuse at some point in time that no one can pinpoint. In 1985, a perceived need for community law enforcement, especially in juvenile and alcohol-related matters, impelled the village

¹⁰⁸ Titles in this series are available from Tribal Government Services, Tanana Chiefs Conference, 122 First Street, Fairbanks, Alaska, 99701-4897.

residents to reactivate the court.¹⁰⁹ The court presently operates with a panel of five elected judges who sit together to decide cases.

The Minto Tribal Court's dispute resolution functions cover a wide range of subjects, from violations of the ordinances adopted by the village council, to Indian Child Welfare Act cases, to resolving other family situations that do not arise under ICWA (including voluntary traditional adoptions), to (potentially) resolving questions of traditional law. The breadth of the court's activities reflects the willingness of the villagers to resolve disputes in their own style, rather than relying on the State, which often does not have sufficient resources to provide full law enforcement in smaller communities.

c. Tanana Tribal Court

Some Interior villages operate tribal courts without assistance from TCC. The village of Tanana exemplifies a strong tribal court and council government that is not associated with TCC. Tanana is incorporated under state law as a first class city, and also is governed by an IRA council.

A council ordinance formally established the Tanana Tribal Court in 1981; however, for many years before that the IRA council had operated informally as a tribal court. The court hears civil cases involving tribal members (approximately 450 of whom live in Tanana and over 1,000 of whom live elsewhere, including outside Alaska) and criminal cases involving residents of Tanana.

The BIA funds the court;¹¹⁰ it has an annual budget of over \$10,000. About half of the budget pays one staff person, who spends approximately one-quarter of her time on tribal court matters. The remainder is spent on training and outside legal advice. The IRA council contributes office space and supplies. The judges are not paid.

The seven judges, most of whom are elected members of the IRA council, sit in panels of three. There also are two elders' seats. The court has written rules of

¹⁰⁹ The Council's earlier report, *RESOLVING DISPUTES LOCALLY*, *supra* note 11, evaluates the Minto and Sitka tribal courts, and details the circumstances surrounding the rejuvenation of the Minto Tribal Court.

¹¹⁰ Tanana tribe is a PL 93-638 contractor. PL 93-638 contracting is explained *supra* at note 92.

procedure. The court does not allow attorneys to practice before it; however, parties can present witnesses and may have others speak for them. After hearing from both sides, the judges recess to confer among themselves; they announce their decision when they have reached consensus. The court considers ICWA, and a combination of traditional and local law in its deliberations. The court emphasizes rehabilitation, prevention of future problems, restitution and community work service. Where substance abuse appears to be an issue, the court often will order family or inpatient substance abuse treatment and followup.

The court considers a variety of cases, including ICWA, misdemeanors, juvenile cases, civil disputes, custody cases, marriages,¹¹¹ and tribal adoptions. Last year, the court met approximately two times per month, hearing on average three to four cases each session. Criminal case referrals often come from the Municipal Public Safety Officer.¹¹²

d. Venetie and Arctic Village

Two of the more active villages in the area are not members of TCC or Doyon. Venetie and Arctic Village are inhabited by the Neets'aii Gwich'in.¹¹³ Each village is governed by a local village council, while the entire land base and membership is governed by a tribal government consisting of nine members elected for three-year terms.¹¹⁴ The latter government is organized under the Indian Reorganization Act and is known as the Native Village of Venetie Tribal Government.

¹¹¹ Tanana's tribal code gives the court authority to regulate all civil affairs of tribal members, including marriage. Judges have performed two marriages to date.

¹¹² The municipal and tribal governments in Tanana appear to enjoy a good working relationship. The Municipal Public Safety Officer cooperates with the tribal court, serving subpoenas and warrants for the court and monitoring offenders (particularly juveniles) who have been sentenced by the court.

¹¹³ The villages are surrounded by 1.8 million acres of land which in 1943 were designated as a reservation by the Secretary of the Interior. The residents of the area voted to accept the reserve in 1944; however, Congress revoked the reservation in 1971 by enacting section 19(a) of the Alaska Native Claims Settlement Act. Venetie and Arctic Village incorporated under section 1618(b) of ANCSA, acquiring fee simple title to a portion of the former reservation land. In 1978, the villages transferred title to the land to a joint governing body known as the Native Village of Venetie Tribal Government. *Alaska v. Native Village of Venetie*, 856 F.2d 1384, 1386 (9th Cir. 1988).

¹¹⁴ The tribal government deals with issues affecting the reservation as a whole and handles controversies arising with the state and federal governments. The village councils operate their respective air strips and electric generating plants, sell fuel, run laundromats and showers for public use, and operate health clinics, among other things.

Primary functions of both village councils include resolving disputes between tribal members within the villages, and generally keeping the peace. The village councils enforce their own rules, as well as rules that the tribal government adopts. For example, in 1970 the tribal government initiated a prohibition against the sale of alcohol, leaving enforcement to the village councils. Individuals caught with alcohol are subject to a fine of \$50 for the first offense. Repeat offenders are subject to banishment from the village for a specific length of time. In addition, the tribal government and the councils formalize traditional adoptions.¹¹⁵

★ **Regional Organization**

Tanana Chiefs Conference, Inc.
122 First Ave.
Fairbanks, AK 99701-4897

Contact: William Walters
Phone: (907) 452-8251
Fax: FAX (907) 452-8936

★ **Local Organizations**

Alatna Traditional Council
General Delivery
Alatna, AK 99720

Contact: Gerald Sam (Chief)
Phone: (907) 982-2241 (msg)

Allakaket Traditional Council
General Delivery
Allakaket, AK 99720

Contact: Gilbert Vent (1st Chief)
Phone: (907) 968-2241
Fax: (907) 968-2251

Anvik Traditional Council
General Delivery
Anvik, AK 99558

Contact: Carl Jerue, Jr. (Chief)
Phone: (907) 663-6328

Arctic Village Traditional Council
Box 22050
Arctic Village, AK 99722

Contact: Trimble Gilbert (First Chief)
Phone: (907) 587-5129 Work
(907) 587-5320 Home

Beaver Traditional Council
P.O. Box 24029
Beaver, AK 99724

Contact: Arlene Pitka (Chief)
Phone: (907) 628-6126
Fax: (907) 628-6812

¹¹⁵ See *Native Village of Venetie v. Alaska*, 944 F.2d 548 (9th Cir. 1991).

Birch Creek Traditional Council Birch Creek via Fort Yukon Fort Yukon, AK 99740	<i>Contact:</i> Randall Banlam (First Chief) <i>Phone:</i> (907) 221-2212 <i>Fax:</i> (907) 221-2213
Canyon Village Traditional Council P.O. Box 13 Fort Yukon, AK 99740	<i>Contact:</i> Stanley Jones (President) <i>Phone:</i> (907) 662-2502
Chalkyitsik Traditional Council General Delivery Chalkyitsik, AK 99788	<i>Contact:</i> James Nathaniel, Sr. (Chief) <i>Phone:</i> (907) 848-8893 <i>Fax:</i> (907) 848-8893
Circle Traditional Council General Delivery Circle, AK 99733	<i>Contact:</i> Allen John (Chief) <i>Phone:</i> (907) 773-8776 (msg)
Dot Lake Traditional Council P.O. Box 2272 Dot Lake, AK 99737	<i>Contact:</i> William Miller (President) <i>Phone:</i> (907) 882-5137
Eagle Traditional Council P.O. Box 19 Eagle, AK 99738	<i>Contact:</i> Matthew Malcolm (First Chief) <i>Phone:</i> (907) 547-2238
Evansville Traditional Council General Delivery Evansville, AK 99726	<i>Contact:</i> Rhoda Musser (Chief) <i>Phone:</i> (907) 692-5467
Fort Yukon IRA Council P.O. Box 126 Fort Yukon, AK 99740	<i>Contact:</i> Clarence Alexander (Chief) <i>Phone:</i> (907) 662-2561
Grayling IRA Council General Delivery Grayling, AK 99590	<i>Contact:</i> Henry Deacon (Chief) <i>Phone:</i> (907) 453-5133 <i>Fax:</i> (907) 453-5146
Healy Lake Traditional Council P.O. Box 60300 Fairbanks, AK 99737	<i>Contact:</i> Fred Kirstealter (President) <i>Phone:</i> (907) 895-4444 Dial 16 after beeps or Radio Fairbanks 452-1166 ask for 0259
Holy Cross Traditional Council P.O. Box 203 Holy Cross, AK 99602	<i>Contact:</i> James Walker <i>Phone:</i> (907) 476-7139 <i>Fax:</i> (907) 476-7110

Huslia Traditional Council P.O. Box 10 Huslia, AK 99746	<i>Contact:</i> Franklin Simon, Sr. (1st Chief) <i>Phone:</i> (907) 829-2256 (msg)
Kaltag IRA Council P.O. Box 9 Kaltag, AK 99748	<i>Contact:</i> Franklin Madros, Sr. (Chief) <i>Phone:</i> (907) 534-2236 <i>Fax:</i> (907) 534-2236
Koyukuk Traditional Council P.O. Box 49 Koyukuk, AK 99754	<i>Contact:</i> Percy Lolnitz (Chief) <i>Phone:</i> (907) 927-2220
Lake Minchumina Traditional Council P.O. Box 53 Kaktovik, AK 99747	<i>Contact:</i> Robert J. Thompson (President) <i>Phone:</i> (907) 366-7228/BLM
Louden Traditional Council P.O. Box 244 Galena, AK 99741	<i>Contact:</i> Stan Huntington (Acting Chief) <i>Phone:</i> (907) 656-1711 <i>Fax:</i> (907) 656-1716
Manley Traditional Council P.O. Box 23 Manley, AK 99756	<i>Contact:</i> Elizabeth Woods (President) <i>Phone:</i> (907) 672-3177
McGrath Traditional Council P.O. Box 134 McGrath, AK 99627	<i>Contact:</i> Donna Fleagle (First Chief) <i>Phone:</i> (907) 524-3024
Medfra Traditional Council General Delivery Nikolai, AK 99691	<i>Contact:</i> Verdene Anselment (First Chief) <i>Phone:</i> (907) 243-7387
Minto Tribal Court P.O. Box 26 Minto, AK 99758	<i>Contact:</i> Luke Titus (Chief) <i>Phone:</i> (907) 798-7112 <i>Fax:</i> (907) 798-7212
Nenana Traditional Council P.O. Box 356 Nenana, AK 99760	<i>Contact:</i> Mitch Demientoff (Chief) <i>Phone:</i> (907) 832-5662
Nikolai Edzeno Native Council General Delivery Nikolai, AK 99691	<i>Contact:</i> Ignetti Petruska (First Chief) <i>Phone:</i> (907) 293-2311 <i>Fax:</i> (907) 293-2328

Northway Tribal Court c/o Northway Traditional Council P.O. Box 516 Northway, AK 99764	<i>Contact:</i> Lorraine Titus (Judge) <i>Phone:</i> (907) 778-2311 <i>Fax:</i> (907) 778-2220
Nulato Traditional Council P.O. Box 94 Nulato, AK 99765	<i>Contact:</i> Ivan Sipary (Chief) <i>Phone:</i> (907) 896-2207
Rampart Traditional Council Box 67029 Rampart, AK 99767	<i>Contact:</i> Ken Mayo (Chief) <i>Phone:</i> (907) 358-3312 <i>Fax:</i> (907) 358-3312
Ruby Traditional Council P.O. Box 21 Ruby, AK 99768	<i>Contact:</i> Pat McCarthy (Second Chief)
Shageluk IRA Council General Delivery Shageluk, AK 99665	<i>Contact:</i> Rudy Hamilton, Sr. (Chief) <i>Phone:</i> (907) 473-8221
Stevens IRA Council General Delivery Stevens Village, AK 99774	<i>Contact:</i> Randy Mayo (Chief) <i>Phone:</i> (907) 478-9226
Takotna Traditional Council General Delivery Takotna, AK 99675	<i>Contact:</i> David Miller (First Chief) <i>Phone:</i> (907) 296-2212 <i>Fax:</i> (907) 296-2212
Tanacross Tribal Court P.O. Box 769999 Tanacross, AK 99776	<i>Contact:</i> Diane Titus (Judge) <i>Phone:</i> (907) 883-4130
Tanana Tribal Court Box 93 Tanana, AK 99777	<i>Contact:</i> Carla Bonnie (court clerk) <i>Phone:</i> (907) 366-7170 <i>Fax:</i> (907) 366-7195
Telida Traditional Council General Delivery Telida, AK 99629	<i>Contact:</i> Steve Eluska (First Chief) <i>Phone:</i> (907) 843-8115
Tetlin IRA Council P.O. Box 520 Tetlin, AK 99779	<i>Contact:</i> Bentley Mark, Sr. (President) <i>Phone:</i> (907) 883-2202

Venetie Traditional Council
P.O. Box 119
Venetie, AK 99781

Contact: John Titus (First Chief)
Phone: (907) 649-8229
Fax: (907) 849-8415 (4-5:00)

Wiseman Traditional Council
1455 Skyline
Fairbanks, AK 99701

Contact: Vernon F. Miller (Chief)
Phone: (907) 457-5602

★ **Alaska Court System**

Magistrate Tracy L. Blais
Box 401
Delta Junction, AK 99737
(907) 895-4211
(907) 895-4204 FAX

Magistrate James A. Jackson
[also serves McGrath]
Box 167
Galena, AK 99741-0167
(907) 656-1322
FAX (907) 656-1546

Fairbanks Superior and Dist Cts
Eight judges
Committing Mag. John Hessin
Acting Dist Ct. Judge/Committing
Mag. Wm. Ronald Smith
604 Barnette Street
(check with court for room
numbers to be used in addressing
mail)
Fairbanks, Alaska 99701
Clerk's Office: (907) 452-9263

Magistrate Paul Verhagen
Deputy Mag. Anita Talerico
Box 298
Healy, AK 99743-0298
(907) 683-2589
FAX (907) 683-2213

McGrath
(served by Galena Magistrate)

Magistrate Thomas Knudson
Box 211
Fort Yukon, AK 99740-0211
(907) 662-2336
FAX (907) 662-2824

Magistrate Paul Verhagen
Box 449
Nenana, AK 99760-0449
(907) 832-5430
FAX (907) 832-5841

Magistrate Paul Verhagen
Box 231
Tanana, AK 99777-0231
(907) 366-7243

5. Yukon-Kuskokwim Delta

Bethel and fifty-five villages¹¹⁶ have formed village corporations in the region served by Calista, the profit-making Native regional corporation for the Yukon-Kuskokwim Delta area. The Association of Village Council Presidents serves as the non-profit corporation. Yupik Eskimos populated the region, traditionally governing themselves in extended family structures. Leadership centered in groups of elders rather than in a single person, although among some groups, leadership positions might have tended to be inherited. Missionaries and teachers coming to the region introduced village council governments in the late 1800s and early 1900s.

To the best of our knowledge, few if any, villages had tribal courts until very recently; however, several villages have had a reputation for a number of years as having very active tribal and village councils. Magistrates and others have commented that very few offenses were prosecuted in the state system from those communities.¹¹⁷

a. Association of Village Council Presidents' Project

The Association of Village Council Presidents ("AVCP") hired a Family Justice System Coordinator in 1992 to implement a pilot program of family justice system courts in eight AVCP-region villages. The project is funded by a grant from the Administration for Native Americans (ANA). Goals of the project include helping the villages develop tribal codes, courts, and a financial plan to continue court operations when grant funds run out. The first villages slated to implement tribal courts are Chevak, Kotlik, Mekoryuk and Toksook Bay. Four other villages plan to implement tribal courts in 1993: Kipnuk, St. Mary's, Kwethluk, and Goodnews Bay.¹¹⁸

¹¹⁶ The villages that formed corporations are: Akiachak, Akiak, Alakanuk, Andreafsky, Aniak, Atmautluak, Bill Moore's, Cheformak, Chevak, Chuathbaluk, Chuloonawick, Crooked Creek, Eek, Emmonak, Georgetown, Goodnews Bay, Hamilton, Hooper Bay, Kalskag, Kasigluk, Kipnuk, Kongiganak, Kotlik, Kwethluk, Kwigillingok, Lime Village, Lower Kalskag, Marshall/Fortuna Ledge, Mekoryuk, Mountain Village, Napaimiute, Napakiak, Napaskiak, Newtok, Nightmute, Nunapitchuk, Onogamiut, Oscarville, Paimiut, Pilot Station, Pitkas Point, Platinum, Quinhagak, Red Devil, Russian Mission, St. Mary's, Scammon Bay, Sheldon's Point, Sleetmute, Stony River, Toksook Bay, Tuluksak, Tuntutuliak, Tununak and Umkamiut .

¹¹⁷ This is similar to the situation described in Minto, where the Fairbanks district attorney's office reported only a handful of cases from Minto over the past several years, as compared to the dozens arising from comparable villages in the Interior. See RESOLVING DISPUTES LOCALLY, *supra* note 11, at 84.

¹¹⁸ ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS, ANNUAL REPORT FISCAL YEAR 1992 at 18 (1992).

Currently, one village has passed a family code, and three others are in the process of making the final changes to their proposed codes. All the four initial villages have appointed judges, usually in panels of three. All judges were chosen from members of the village councils. One village is ready to begin its training and is working on documenting current practices in order to formalize them as written procedures.

b. Yupiit Nation

Another organization, the Yupiit Nation, encourages formation of tribal courts in this region as an aspect of its zealous advocacy for sovereignty. The broad goals of the group are to reestablish local control over education, the land and resources, and to foster Native self-government.¹¹⁹ One specific goal is to reestablish non-Western, pre-contact Yupik law and order.¹²⁰ The Yupiit Nation has drafted ordinances establishing a Yupiit Nation Regional Court and a Yupiit Nation Court of Appeals.¹²¹ Villages in the Yupiit Nation that have a history of active village councils, some of which may function as tribal courts, include Akiachak, Akiak and Tuluksak. Akiachak reportedly is in the process of forming a tribal court. The village has a tribal administrator who has been developing written court rules, and a judge reportedly has been selected.

c. Council Activity

Some of villages in the region with a history of strong, active village or elders' councils are in various stages of adapting the council's traditional function of social control to a more formal court structure. Among the villages making the transition are Kwigillingok, Emmonak, Scammon Bay, Chevak, and Mekoryuk.

i. Kwigillingok - The efforts of villagers in Kwigillingok to start a tribal court exemplify the trend in this region. In the past year, organizers in Kwigillingok held meetings to discuss establishing a tribal court. They believe that the court should use a "counseling" format similar to that traditionally used by the village

¹¹⁹ A. FIENUP-RIORDAN, *supra* note 4, at 194.

¹²⁰ *Id.*

¹²¹ The Yupiit Nation also has drafted probate and family codes.

council, with an emphasis on confronting offenders before problems become serious. They also anticipate that the court will consider ICWA cases, adoptions, and domestic violence cases.

The Kwigillingok IRA council then passed a resolution to establish a tribal court, drafted local ordinances, and sent a copy of those ordinances to all houses in the village. The council has selected four villagers to serve as judges. Organizers are seeking funding for training and court operating expenses; currently they rely on volunteer efforts and in-kind contributions of space, office supplies and clerical help from the IRA council.

ii. Emmonak - Another village attempting to adapt the traditional methods to more formal structures is Emmonak. Emmonak requested and received conciliation training from PACT in 1991, and has offered conciliation services sporadically since the training. One resident recalls that Emmonak had a village council that maintained social control in the traditional way, by calling offenders before it for counseling and warnings. The council abandoned this activity with the arrival of the state court system, but villagers soon began looking for a way to prevent village youth from being taken to Bethel for what were perceived as relatively harmless criminal offenses. The conciliation board developed in 1974¹²² was seen as one solution, although a lack of funds and leadership contributed to its lack of permanence.

iii. Scammon Bay - Scammon Bay is a third village that is seeking new ways of asserting local control. A man who grew up in Scammon Bay but went away to high school and college remembers hearing that before the state court system was in place, a group of elders dealt with village problems by summoning villagers accused of wrongdoing, and talking to them and scolding them when necessary. He felt that the State had discouraged this activity by telling villagers that it would handle all future problems. In more recent times, the elders' council has taken on its traditional role again. A Bethel Assistant Public Defender reports that he has had few occasions to go there in the past two years, suggesting that the exercise of traditional authority may be an effective means of responding to incipient or actual criminal activity.

¹²² The conciliation board project sponsored by the Alaska Court System is discussed *supra* in Part I, section C(1)(c).

iv. Chevak - Elders in the village of Chevak recently elected judges from among their ranks to the village's tribal court, newly established after enactment of a tribal court ordinance in the fall of 1992. Chevak, with a population of 600, has a traditional council that has long had a voice in community decision-making, in addition to its work in resolving disputes and warning offenders. The council is drafting ordinances to codify traditional unwritten village law.

The village's tribal court liaison explained the importance of the elders' role in village justice. Elders bring their traditional authority to bear on the task of judging. Since they have more influence over people, they are an effective force. "When you're sitting in front of the elders you have no choice but to feel their presence. You have this natural respect for them. I don't think anyone wants to go through that." Traditionally, elders settled disputes quietly in the village. The same approach will be used on the tribal court; it is "not an adversarial type thing."

v. Mekoryuk - The Mekoryuk IRA Council handles cases arising under the village's child welfare ordinance. Villagers are talking about the need for a court, and research is under way to determine the best court structure. Authorization for the tribal court is included in the draft constitution the village is revising. Community elders have suggested meeting to discuss traditional dispute resolution.

Like most Bethel-area villages, Mekoryuk is represented by two governments: the city (with 200 residents) and the IRA council (with over 400 enrolled members, including people who live off Nunivak Island but claim Mekoryuk as home). The IRA government contracts directly with BIA; however, the city government refuses to recognize the IRA council's legitimacy. The council has had conflicts with State Troopers who come onto the island in order to investigate crime and sometimes remove offenders from the village. The state DFYS also is perceived as being uncooperative with village authorities; some social workers allegedly refuse to forward paperwork on active children's cases, making it impossible for the village to assert its interests in a timely manner.

vi. Other villages - State justice system employees in the region report being indirectly and directly aware of tribal council or court activity in a number of other area villages. The Bethel Assistant Public Defenders report that they seldom have clients from the villages of Akiachak, Tuluksak, Akiak, Kipnuk and Atmautluak.

These villages may have either tribal courts or village councils that resolve disputes.¹²³ Toksook Bay and Chuathbaluk both have active councils.¹²⁴

★ **Regional Organizations**

Association of Village Council Presidents P.O. Box 219 Bethel, AK 99559	<i>Contact:</i> Cecilia LaCara (Family Justice System Coordinator) <i>Phone:</i> (907) 543-3521
--	---

Kuskokwim Native Association P.O. Box 127 Aniak, AK 99557	<i>Contact:</i> Leo Morgan
---	----------------------------

Yupiiit Nation P.O. Box 109 Akiachak, AK 99551	<i>Contact:</i> Alvin Ivanoff (Project Director) <i>Phone:</i> (907) 825-4311 <i>Fax:</i> (907) 825-4715
--	---

★ **Local Organizations**

Akiachak IRA Council P.O. Box 70 Akiachak, AK 99551	<i>Contact:</i> Willie Kasayulie (President), Phillip Peter (Judge) <i>Phone:</i> (907) 825-4626
---	--

Akiak Native Community P.O. Box 52165 Akiak, AK 99552	<i>Contact:</i> Owen Ivan (President) <i>Phone:</i> (907) 765-7112
---	---

Algaaciq Traditional Council P.O. Box 48 Saint Mary's, AK 99658	<i>Contact:</i> Louis Paukin (Administrator) <i>Phone:</i> (907) 439-2932 <i>Fax:</i> Fax (907) 438-2932
---	--

Atmautluak Traditional Council General Delivery Atmautluak, AK 99559	<i>Contact:</i> Moses Pavilla, Sr. (President) <i>Phone:</i> (907) 553-5610
--	--

¹²³ For a detailed discussion of interactions between the State and tribal courts, see Part III, *infra*.

¹²⁴ Toksook Bay's council recently received publicity in a state court ICWA case in which the village council publicly questioned the Bethel Superior Court judge's placement decision.

Chevak Traditional Council P.O. Box 140 Chevak, AK 99563	<i>Contact:</i> Moses J. Tulim (Tribal Administrator) <i>Phone:</i> (907) 858-7424 <i>Fax:</i> (907) 858-7013
Chuathbaluk Traditional Council P.O. Box CHU Chuathbaluk, AK 99557	<i>Contact:</i> Sinka Sakar, Sr. (President) <i>Phone:</i> (907) 467-4313 <i>Fax:</i> (907) 467-4113
Emmonak Traditional Council P.O. Box 126 Emmonak, AK 99581	<i>Contact:</i> Leonard Augustine (Tribal Administrator) <i>Phone:</i> (907) 949-1720
Hooper Bay Traditional Council P.O. Box 2193 Hooper Bay, AK 99604	<i>Contact:</i> Joseph Bill (Tribal Administrator) <i>Phone:</i> (907) 758-4915
Kipnuk Traditional Council P.O. Box 57 Kipnuk, AK 99614	<i>Contact:</i> Johnnie Paul (President) <i>Phone:</i> (907) 896-5515
Kotlik Traditional Council P.O. Box 20150 Kotlik, AK 99620	<i>Contact:</i> Emma Matthais (Tribal Court Liaison) <i>Phone:</i> (907) 899-4326
Kwethluk IRA Council P.O. Box 84 Kwethluk, AK 99621	<i>Contact:</i> Max Angellan (CEO/Tribal Admin.) <i>Phone:</i> (907) 757-6514
Kwigillingok IRA Council P.O. Box 49 Kwigillingok, AK 99622	<i>Contact:</i> R.J. Lewis Fred Phillip (Tribal Administrator) <i>Phone:</i> (907) 588-8114
Lower Kalskag Traditional Council P.O. Box 27 Lower Kalskag, AK 99626	<i>Contact:</i> George Sam (President) <i>Phone:</i> (907) 471-2307
Mekoryuk P.O. Box 66 Mekoryuk, AK 99630	<i>Contact:</i> Davis Smith <i>Phone:</i> (907) 827-8828

Mountain Village Traditional Council *Contact:* Mike Moses (President)
P.O. Box 32249 *Phone:* (907) 591-2814
Mountain Village, AK 99632

Traditional Council of Mumtraq *Contact:* James M. Smith (President)
P.O. Box 03 *Phone:* (907) 967-8929
Goodnews Bay, AK 99589 *Fax:* Fax (907) 967-8929

Napakiak IRA Council *Contact:* George Billy (President)
General Delivery *Phone:* (907) 589-2227 (message)
Napakiak, AK 99634

Scammon Bay Traditional Council *Contact:* Aloysius Aguchak, Sr.
General Delivery (President)
Scammon Bay, AK 99662 *Phone:* (907) 558-5113

Toksook Bay Traditional Council *Contact:* James Charlie
Nelson Island (Exec. Director & CEO)
Toksook Bay, AK 99687 Pauline Asuluk
 (Family Service Specialist)
Phone: (907) 427-7914
 (907) 427-7114

★ **Alaska Court System**

Magistrate Terry Bissonnette
Box 147
Aniak, AK 99557-0147
(907) 675-4325
FAX (907) 675-4278

Magistrate (Vacant)
[also serves Scammon Bay]
Box 114
Hooper Bay, AK 99604-0114
(907) 758-4728
FAX 758-4920

Superior Court Judge Dale Curda
Magistrate Craig McMahan
Box 130
Bethel, AK 99559-0130
(907) 543-3348
FAX (907) 543-4419

Mountain Village
[served by St. Mary's magistrate]

Magistrate Dorothy Kameroff
Box 176
Emmonak, AK 99581-0176
(907) 949-1748
FAX (907) 949-1535

Magistrate (vacant)
Box 109
Quinhagak, AK 99655-0109
(907) 556-8015
FAX (907) 556-8247

Magistrate (vacant)
[also serves Mountain Village]
Box 183
St. Mary's, AK 99658-0183
(907) 438-2912
FAX (907) 438-2819

Scammon Bay
[served by Hooper Bay
magistrate]

6. Bristol Bay Area

The Bristol Bay Area is best known to people outside the State as an area rich in salmon. The area is a transition zone; about half of the villages are Yupik and half are Alutiiq.¹²⁵ Twelve of the villages in the region have both city and tribal governments, and many have 10% or more non-Native residents. Bristol Bay Native Corporation, the profit-making ANCSA corporation, serves twenty-nine villages.¹²⁶ The non-profit regional Native corporation, Bristol Bay Native Association (BBNA), serves approximately the same area.

Traditional councils have been the preferred mode of local dispute resolution until very recently. Bristol Bay Native Association staff have worked closely with villages in the past few years to help set up tribal courts in several villages. ICWA and other family cases have been the major focus of this activity.

a. Bristol Bay Native Association Project

The Bristol Bay Native Association (BBNA), which serves Dillingham and its area villages, concluded a two-year child justice project in 1992. The project was funded by a grant from the Department of Justice to improve local responses to child abuse; later

¹²⁵ Two of the villages, Nondalton and Pedro Bay, are Athabascan. Others have populations of Yupik, Alutiiq and Athabascan, making it difficult to characterize them as predominantly one group or another.

¹²⁶ Villages in the region that formed corporations are: Aleknagik, Chignik, Chignik Lagoon, Chignik Lake, Clarks Point, Dillingham, Egegik, Ekuk, Ekwok, Igiugig, Iliamna, Ivanof Bay, Kokhanok, Koliganek, Levelock, Manokotak, Naknek, Newhalen, New Stuyahok, Nondalton, Pedro Bay, Perryville, Pilot Point, Portage Creek, Port Heiden, South Naknek, Togiak, Twin Hills, and Ugashik.

phases included tribal code and court development in several villages as part of this effort. Nondalton and New Stuyahok revised their constitutions to authorize tribal courts, and enacted local codes of ordinances in this process. The ordinances include domestic relations and general law and order titles as well as child abuse and judicial codes. BBNA conducted a tribal court training in New Stuyahok in February 1993, and another training in Nondalton in March. BBNA anticipates that both villages will begin operating their tribal courts in the near future. An elders' court now functioning in Togiak as part of this program uses informal procedures and traditional counseling methods.

b. Council Activity

Councils in the villages of New Stuyahok, Ekwok, Dillingham, Togiak, and Manokotak have taken an active role in the resolution of ICWA cases, according to a state social worker in Dillingham. This social worker's description of his interactions with the councils suggests that the councils continue to fulfill their traditional function of maintaining social control in part by working with the State in child abuse and neglect cases. The councils' activity often appears to be adjudicatory in nature.

When a village calls the social worker in to investigate a report of abuse or neglect, the social worker often asks to meet with the village council or tribal court. There he presents the findings of his investigation and his suggestions as to what should be done. He also requests the council or court's advice and assistance. If the members of the council and the social worker can agree on a plan, the council summons the family and informs them that if they cooperate with the council, the State will delay taking action. The council then monitors the family's progress and reports back to the social worker. If the problem recurs, the council notifies the social worker, who steps in and takes over.

This social worker estimates that he refers six cases a year to the Dillingham council, four a year to New Stuyahok, five to Togiak, two to Manakotak, and three to Ekwok. These bodies use a combination of state law, traditional law and the Indian Child Welfare Act in their deliberations. The Dillingham council in particular relies on ICWA in its decisions.

Employees of the state Office of Public Advocacy report that the villages of Naknek and Port Heiden have been active in ICWA cases. Aleknagik is another Bristol

Bay area village that has an active elected tribal council. Despite an interruption in its activity in the early 1990s, the Aleknagik Tribal Council now participates in ICWA cases.¹²⁷ Aleknagik has an active city government supported by revenue from leases of buildings and equipment, and by state grants.

★ **Regional Organization**

Bristol Bay Native Association
Box 310
Dillingham, AK 99576

Contact: Bruce Baltar (general counsel)
Phone: (907) 842-5257
Fax: (907) 842-5932

★ **Local Organizations**

Aleknagik Village Council
P.O. Box 115
Aleknagik, AK 99555

Contact: Miriam Olsen (President)
Phone: (907) 842-2229
Fax: (907) 842-2841

Dillingham Village Council
P.O. Box 216
Dillingham, AK 99576

Contact: H. Sally Smith (President)
Phone: (907) 842-2384
Fax: (907) 842-2784

Ekwok Village Council
P.O. Box 70
Ekwok, AK 99580

Contact: Luki Akelkok, Sr. (President)
Phone: (907) 464-3311
Fax: (907) 464-3328

Manokotak Village Council
P.O. Box 169
Manokotak, AK 99628

Contact: Wassillie Tugatuk, Sr.
Phone: (907) 289-2067
Fax: (907) 289-2035

Naknek Native Village Council
P.O. Box 106
Naknek, AK 99633

Contact: Norman Anderson
Phone: (907) 246-4210
Fax: (907) 246-3563

New Stuyahok Village Council
P.O. Box 49
New Stuyahok, AK 99636

Contact: Annie B. Chocknok (President)
Phone: (907) 693-3173
Fax: (907) 693-3176

¹²⁷ A few years ago, a group from Aleknagik declared themselves a tribal court without authorization from the tribal body. The group had no written laws or procedures and never handled any routine village problems like alcohol regulation or childrens' cases. The group received publicity when one of its members was charged with state fish and game violations and the group purported to acquit him of those charges. Aleknagik's elected tribal council never has established a tribal court.

Nondalton Village Council
General Delivery
Nondalton, AK 99640

Contact:
Phone: (907) 294-2235
Fax: Fax (907) 294-4945

Port Heiden Village Council
P.O. Box 49007
Port Heiden, AK 99549

Contact: Robert (Bobby) Christiansen
(President)
Phone: (907) 837-2218

Togiak Traditional Council
P.O. Box 209
Togiak, AK 99678

Contact: Stanley Active, Sr. (President)
Phone: (907) 493-5920
Fax: (907) 493-5932

★ Alaska Court System

Superior court cases are handled from Anchorage. Contact:

Clerk of Court
303 K Street
Anchorage, AK 99501-2083
(907) 274-8611

Magistrate (vacant)
Deputy Magistrate Darleen Burton
Box 909
Dillingham, AK 99576-0909
(907) 842-5215
FAX (907) 842-5746

Magistrate William W. Garrison
Deputy Magistrate Julie Jedlicka
Box 229
Naknek, AK 99633-0229
(907) 246-4240
FAX (907) 246-6151

A magistrate position may be filled in Togiak during 1993.

7. Kodiak Island

Kodiak Island was the location of the first Russian settlement, in 1784. The Alutiiq population has ties to Yupik language and Aleut culture, but is distinct from both. Kodiak Natives organized themselves in extended families traditionally, but gradually adopted a council form of government as they adapted to western pressures and society. Koniag, the profit-making corporation, serves the six island villages,¹²⁸ and Kodiak Area Native Association (KANA) provides non-profit regional Native corporation services.

¹²⁸ These villages are: Ahkiok, Karluk, Larsen Bay, Old Harbor, Ouzinkie, and Port Lions.

Currently none of Kodiak Island's Native villages has a tribal court. One Native leader attributes the absence of tribal courts to two factors: early and intense contact with Russians and, later, white Americans, and the municipal government structure that has supplanted tribal government.¹²⁹ Despite historical and present day impediments to developing strong tribal government, at least two Kodiak organizations are working toward the future establishment of tribal courts: the Kodiak Tribal Council¹³⁰ and KANA.

Kodiak Tribal Council recently received its first PL 93-638 contract.¹³¹ Its immediate priority is to establish a strong social service program, but long-range goals include organization of a tribal court based in Kodiak that will serve all island villages and Natives in the city of Kodiak. KANA also is planning for the eventual establishment of tribal courts. According to one KANA source, interest in tribal courts is growing, and, already, KANA personnel are collecting information about tribal courts and exploring funding for future courts. Some villagers are gaining decision-making experience through intervention in ICWA cases on behalf of their villages.

Councils in two Kodiak villages, Akhiok¹³² and Larsen Bay,¹³³ are active in ICWA cases. Akhiok intervened in one 1989 case to prevent the voluntary adoption of a second-generation Native born in California. The village sought to have the child adopted into a Native home, against the wishes of the Native mother. The California court eventually ruled in the mother's favor. Akhiok remains active in handling ICWA cases.

¹²⁹ Karluk is the only Kodiak Island village organized under the IRA.

¹³⁰ Kodiak Tribal Council is affiliated with Natives of Kodiak, a for-profit corporation still awaiting ANCSA recognition.

¹³¹ PL 93-638 contracts are discussed *supra* at note 92.

¹³² Akhiok, population 77, is a leader in the sobriety movement. Inspired by the success of the Alkali Lake band, Natives in Akhiok have maintained sobriety and are working at reforming their community.

¹³³ Larsen Bay was in the public eye in 1991 when it successfully sought repatriation of human remains taken from the village in the early 1900s by Smithsonian Institution researchers.

★ **Regional Organizations**

Kodiak Area Native Association
402 Center Avenue
Kodiak, AK 99615

Contact: Margie Derenoff
(Tribal Operations)
Phone: (907) 486-5725

Kodiak Tribal Council
P.O. Box 1974
Kodiak, AK 99615

Contact: Margaret Roberts (President)
Phone: (907) 486-4449
Fax: (907) 486-3361

★ **Local Organizations**

Akhiok Tribal Council
P.O. Box 5072
Akhiok, AK 99615-5072

Contact: Nick Peterson (President)
Phone: (907) 836-2229
Fax: (907) 836-2209

Larsen Bay Tribal Council
P.O. Box 35
Larsen Bay, AK 99624

Contact: Pam Carlson
Phone: (907) 847-2207
Fax: (907) 847-2207

★ **Alaska Court System**

Superior Court Judge Donald D. Hopwood
Magistrate Anna M. Moran
Deputy Mag. Lori A. Wade
202 Marine Way
Kodiak, AK 99615-9987
(907) 486-5765
FAX (907) 486-6738

8. Aleutian/Pribilof Islands

The Alaska Peninsula and Aleutian Chain includes about a dozen communities, although historically the number was larger. Some communities were decimated by disease during the Russian occupation; others were evacuated by the United States during World War II in response to Japanese occupation of parts of the territory and never re-populated. Aleuts traditionally organized themselves by families and villages, with the village being the primary social unit. Village councils were introduced at some point in time; however, far less information is available about Aleut history than about

other Native groups.¹³⁴ Thirteen villages in the Aleut Corporation's region have formed village corporations.¹³⁵ The Aleutian-Pribilof Islands Association is the regional Native non-profit corporation.

There are twelve IRA councils and tribal governments in the region.¹³⁶ Most of the tribal councils take an active role in the community, and assisted by the regional nonprofit corporation, many have taken an active role in ICWA cases.¹³⁷ A number of the communities have passed resolutions calling for the formation of tribal courts; however, no community currently has a functioning tribal court. One major constraint is the lack of funds. The regional nonprofit corporation has applied twice to the federal Bureau of Indian Affairs for grants to study the need for tribal courts; however, the applications were unsuccessful.

★ **Regional Organization**

Aleutian/Pribilof Islands Association	Contact: Monika Renke, MSW
401 E. Fireweed Lane	(Family Services)
Anchorage, Alaska 99503-2111	Phone: (907) 276-2700

★ **Local Organizations**

Akutan Village Council	Contact: Jacob Stepetin (President)
P.O. Box 89	Phone: (907) 698-2228
Akutan, AK 99553	

¹³⁴ The paucity of historical information is due in part to the Russian occupation and dominance of Russian culture during the late 1700s and 1800s.

¹³⁵ The village corporations are: Akutan, Atkam, Belkofski, Chaluka, Isanotski, King Cove, Nelson Lagoon, Ounalashka, St. George Tanaq, Sanak, Shumagin, Tanadgusix, and Unga.

¹³⁶ The governments are: Agdaguk Tribe of King Cove, Akutan Village Council, Atka IRA, Belkofski Village Council, False Pass Tribal Council, Nelson Lagoon Village Council, Nikolski IRA Council, St. George Traditional Council, Tribal Government of St. Paul, Qugan Tayagungin Tribe of Sand Point, Qawalangin Tribal Council, and Unga Tribal Council.

¹³⁷ Employees of the state Office of Public Advocacy report that Akutan, St. George, and St. Paul all have tribal councils active in ICWA cases.

Saint George IRA Council
P.O. Box 940
Saint George, AK 99591

Contact: Gilbert Kashevarof (President)
Phone: (907) 859-2205

Tribal Government of Saint Paul
P.O. Box 86
Saint Paul, AK 99660

Contact: Rena Kudrin (President)
Phone: (907) 546-2380

★ **Alaska Court System**

Superior court cases are handled from Anchorage. Contact:

Clerk of Court
303 K Street
Anchorage, AK 99501-2083
(907) 274-8611

Magistrate John F. Eppling
[also serves Cold Bay]
P.O. Box 89
Sand Point, AK 99661-0089
(907) 383-3591
FAX (907) 383-5385

Magistrate (vacant)
P.O. Box 170
St. Paul Island, AK 99660-0076
(907) 546-2300
FAX: (907) 546-2489

Magistrate Mary Hawkins
Box 245
Unalaska, AK 99685-0245
(907) 581-1266
(907) 581-2809 FAX

9. Cook Inlet Region

The territory surrounding the upper reaches of Cook Inlet had few Alaska Native villages at the time of the ANCSA settlements. Athabascan Indians populated the areas now known as the Kenai Peninsula (except for the extreme southern and eastern coasts) and the Matanuska-Susitna Valley. They governed themselves, like other Athabascans, in small bands, moving to the council structure only around the turn of the century. Tanaina Indians also populated the Anchorage bowl; they have a number of traditional fish camps and hunting areas in the area.

Cook Inlet Region, the profit-making corporation, includes six Native villages: Niniilchik and Seldovia on the Kenai Peninsula, Eklutna, Knik and Chickaloon north of Anchorage, and Tyonek across Cook Inlet to the west. Cook Inlet Tribal Council provides non-profit services to five of the villages in the CIRI region, Tyonek, Seldovia,

Eklutna, Knik and Ninilchik, as well as any of the thousands of Native Americans living in Anchorage who need social services.¹³⁸

Although only one of the villages in the CITC region currently operates a tribal court (Chickaloon), both Eklutna and Ninilchik have traditional councils that are active in some matters. Some Cook Inlet village councils are beginning to act on their own behalf in ICWA cases;¹³⁹ for those that do not, CITC represents the village when authorized. Typically, a village council passes a formal resolution conferring this authority on a case-by-case basis. This done, CITC will monitor the case, provide case management services, negotiate with service agencies, advocate in court for the child's best interest or intervene in the action, as necessary. According to CITC staff, this procedure works well when a village cannot or does not want to get involved, especially when a family is out of State. For the villages that act on their own behalf, CITC offers training and technical assistance, including a twenty minute film that gives a basic understanding of ICWA.¹⁴⁰

a. Chickaloon Traditional Court

The village of Chickaloon established a tribal court in about 1986. The court takes jurisdiction over matters involving its tribal members and asserts territorial jurisdiction over traditional lands extending as far south as the Kenai Peninsula and east to the Canadian border. The court hears an average of five cases per year, ranging from

¹³⁸ The village of Chickaloon contracts separately with the BIA for social services.

¹³⁹ Employees of the state Office of Public Advocacy report that the Seldovia village council is active in ICWA cases. Also, the Ninilchik Traditional Council reports that it has an Indian Child Welfare Coordinator, who will facilitate the intervention of tribal authority in applicable cases. Letter from M. Kvasnikoff, Ninilchik ICWA Coordinator, to R. Huhndorf, President of CIRI (Mar. 3, 1993).

¹⁴⁰ The film can be purchased for \$5.00, or may be borrowed at no charge by contacting Linda Adams, Cook Inlet Tribal Council, 670 W. Fireweed, Anchorage, AK 99503.

infractions of the village driving code to ICWA matters and other domestic cases.¹⁴¹ At this writing, the court is considering a divorce settlement.¹⁴²

b. Kenaitze Indian Tribe

The Kenaitze Indian Tribe is a federally recognized Indian tribe, currently organized under a 1971 IRA constitution. The Tribe serves nearly 3,000 Alaska Natives on the Central and Upper Kenai Peninsula, of whom 622 are Kenaitze-Denai'na enrolled tribal members.¹⁴³ The Tribe has contracted directly with federal agencies under the Indian Self-Determination Act since 1981, and is recognized by the federal government as a sub-regional tribe.¹⁴⁴

The Kenaitze Tribe's seven-member tribal council has functioned as a tribal court for some time. During the last calendar year, the Council made approximately ten decisions involving ICWA cases. Recent amendments to the Tribe's constitution state its intent "to exercise its judicial powers through the creation of Tribal Courts, the function, duties and jurisdiction to be established by ordinance."¹⁴⁵ The Tribe has requested BIA funding to establish an independent tribal court within the next year.

¹⁴¹ In the case of *State v. Harrison*, 784 P.2d 681 (Alaska App. 1989), the defendant, an Athabascan Indian and Chickaloon village member, argued that the State should dismiss reckless driving charges it had filed against him on the grounds that the Chickaloon Village Traditional Court had exclusive jurisdiction over the offense. The court refused to dismiss the charge, holding that "Indian tribal courts do not have exclusive jurisdiction over criminal offenses committed by Alaska Natives in Alaska even if the offenses occur in 'Indian country.'" *Id.* at 683.

¹⁴² The parties are a tribal member, and a non-tribal member who has consented to the court's jurisdiction in much the same way as non-tribal members have consented to allow the Minto Tribal Court to hear their cases. See *RESOLVING DISPUTES LOCALLY*, *supra* note 11, at 81.

¹⁴³ The Tribe's newly amended constitution, not yet approved by the Department of Interior, increases the number of enrolled tribal members to 827. The Kenaitze Tribe is perhaps best known for its litigation over State of Alaska regulations defining "rural" for the purpose of subsistence use of fish and wildlife resources. See *Kenaitze Indian Tribe v. State of Alaska*, 860 F.2d 312 (9th Cir. 1988). The 9th Circuit Court of Appeals agreed with the Tribe's position that the State's definition of "rural area" conflicted with the federal definition in the Alaska National Interest Lands Conservation Act. The Tribe now sponsors an educational subsistence fishery on the Kenai Peninsula.

¹⁴⁴ The Kenaitze Indian Tribe has no land base, but federal authorities recognize it as responsible for representing a large area within the Cook Inlet region.

¹⁴⁵ Proposed CONST. OF THE KENAITZE INDIAN TRIBE art. 10, § III.

★ **Regional Organization**

Cook Inlet Tribal Council
670 E. Fireweed Lane, Ste. 200
Anchorage, AK 99503

Contact: Esther Combs
(Executive Director)
Phone: (907) 272-7529

Kenaitze Indian Tribe
P.O. Box 988
Kenai, AK 99611

Contact: Rita Smagge (Director)
Phone: (907) 263-3633

★ **Local Organizations**

Anchorage Youth Court
Box 102735
Anchorage, AK 99510

Contact: Sharon Leon (Director)
Phone: (907) 274-5986

Better Business Bureau of Alaska, Inc.
2805 Bering St.
Anchorage, AK 99503

Contact: Brenda Cox
Phone: (907) 562-2824

Chickaloon Traditional Court
P.O. Box 1105
Chickaloon, AK 99674

Contact: Richard Martin (Judge)
Phone: No Phone

Native Village of Eklutna
26339 E. Village Road
Chugiak, AK 99567

Contact: Lee Stephan (CEO)

Municipal Ombudsman
Box 196650
Anchorage, Alaska 99519-6650

Contact: Rosa Garner, Ombudsman
Phone: (907) 343-4461
Fax: (907) 343-4464

Ninilchik Traditional Council
P.O. Box 39070
Ninilchik, AK 99639

Contact: Marla Kvasnikoff
Phone: (907) 567-3313
Fax: (907) 567-3308

Seldovia Village Tribe
P.O. Drawer L
Seldovia, AK 99663

Contact: Fred Elvsaas
Phone: (907) 234-7898
Fax: (907) 234-7637

Native Village of Tyonek
P.O. Box 82009
Tyonek, AK 99682-3009

Contact: Donald Standifer, Sr.
Phone: (907) 583-2201
Fax: (907) 583-2442

★ **Alaska Court System**

Anchorage Superior Court
303 K St.
Anchorage, AK 99501-2083
(907) 274-8611
FAX (907) 279-8218

Anchorage District Court
941 West Fourth Ave.
Anchorage, AK 99501-2074
(907) 274-8611

Dist. Ct Judge M. Francis Neville
Deputy Mag. Jeannette Olson
Deputy Mag. Dianna Boucher
3670 Lake Street
Suite 400
Homer, AK 99603-7686
(907) 235-8171
FAX (907) 235-4257

Superior Court Judge Charles Cranston
Superior Court Judge Jonathan H. Link
Magistrate Lynn Christensen
Deputy Magistrate Robin L. Andree
Deputy Magistrate Deirdre J. Cheek
145 Main St. Loop
Room 106, Main Floor
Kenai, AK 99611-7723
(907) 283-3117
FAX (907) 283-4121

Superior Court Judge Beverly Cutler
Dist. Court Judge Peter Ashman
Magistrate Dave Zwink
Magistrate Judy Spartz
Dep. Mag. Joanne Graham
Dep. Mag. Jackie Allen
Palmer Superior Court
435 South Denali Street
Palmer, AK 99645
(907) 745-5071
(907) 746-4151 FAX

Magistrate George Peck
Deputy Magistrate Jean Lewis
Box 1929
Seward, AK 99664-1929
(907) 224-3075
FAX (907) 224-7192

10. Prince William Sound/Gulf of Alaska

A narrow strip of land along the Prince William Sound and Gulf of Alaska area includes a handful of Alutiiq villages, and at least one Athabascan sub-group. Chugach Natives is the regional profit-making corporation, serving Chenega Bay, Nanwalek (formerly English Bay),¹⁴⁶ the Native Village of Cordova,¹⁴⁷ Port Graham and Tatitlek.

¹⁴⁶ Chenega Bay, Nanwalek, Port Graham and Tatitlek are Alutiiq villages.

¹⁴⁷ The Eyak area is principally Athabascan, with some Alutiiq inhabitants.

Port Graham and Nanwalek are governed by traditional councils; Chenega Bay and Tatitlek are IRA villages.

Chugachmiut, formerly North Pacific Rim, is the non-profit Native corporation serving the Chugach Alaska region communities: the villages of Port Graham and Nanwalek; Chenega Bay and Tatitlek;¹⁴⁸ the Native Village of Eyak in Cordova, Mount Marathon Native Association¹⁴⁹ in Seward, and the Valdez Native Association. The villages and associations differ widely in their dispute resolution activities.

Port Graham's traditional council acts as a court, considering, to date, between twenty and thirty ICWA cases, along with handling health and safety matters such as alcohol-related crime, garbage and waste, and offenses involving vehicles. The local VPSO refers health and safety cases to the council for action. The council has applied for a grant from the BIA to accomplish the transition to a formally structured court. As proposed, one half-time staff person will work for six months organizing previously enacted council resolutions and ordinances and the traditional law of the village into a village code. Training would be provided for a judge-designate selected by the council. The court would begin actual operations six months into the grant period.

Nanwalek is included in the grant proposal submitted by Chugachmiut on behalf of the villages. Nanwalek's court would begin operations nine months into the grant period to allow more time for organization. To date, Nanwalek's traditional council has considered some ICWA cases, but has not considered any other matters. Like Nanwalek, Tatitlek has considered some ICWA cases. Chenega Bay and the two Native Associations are largely inactive in dispute resolution at this time.

★ Regional Organization

Chugachmiut
3300 C Street
Anchorage, AK 99503-2775

Contact: John Purcell
Phone: (907) 562-4155
Fax: FAX (907) 563-2891

¹⁴⁸ These four villages are Alutiiq.

¹⁴⁹ Effective in May of 1993, the Mount Marathon Native Association changed its name to the Quteckak Tribal Council. Quteckak is an Alutiiq word. The Bureau of Indian Affairs recognizes neither the Mount Marathon Native Association nor the Valdez Native Association as tribal governing entities. The Associations plan to seek official recognition.

★ **Local Organizations**

Nanwalek Traditional Council
P.O. Box 8065
Nanwalek, AK 99603

Contact: Vincent Kvasnikoff

Port Graham Village
P.O. Box 5510
Port Graham, AK 99603

Contact: Eleanor McMullen

Tatitlek IRA Council
P.O. Box 171
Tatitlek, AK 99677

Contact: Gary Kompkoff

★ **Alaska Court System**

Magistrate Susan Weltz
Deputy Magistrate Nancy Plucker
Box 898
Cordova, AK 99574-0898
(907) 424-3378/7578
(907) 424-7581 FAX

Magistrate George Peck
Deputy Mag. Jean Lewis
Box 1929
Seward, Alaska 99664-1929
(907) 224-3075

Dist. Ct. Judge M. Francis Neville
Deputy Mag. Jeannette Olson
Deputy Mag. Dianna Boucher
3670 Lake Street, Suite 400
Homer, Alaska 99603-7686
(907) 235-8171

Superior Crt Judge Glen Anderson
Magistrate (vacant)
Box 127
Valdez, Alaska 99686-0127
(907) 835-2266

Superior Ct Judge C. Cranston
Superior Ct Judge Jonathan Link
Magistrate Lynn Christensen
Deputy Mag. Robin L. Andree
Deputy Mag. Dierdre J. Cheek
145 Main Street Loop
Room 106, Main Floor
Kenai, Alaska 99611-7723
(907) 283-3110

Magistrate (vacant)
Box 729
Whittier, AK 99693
(907) 472-2356
(907) 472-2456 FAX

11. Southeast Alaska

The narrow strip of Alaska also known as the "Panhandle" stretches south from about Yakutat for several hundred miles along the Pacific Coast. Its Native inhabitants, the Tlingit and Haida Indians, lived in clans and housegroups, governing themselves with chiefs and clan leaders. Representatives of the United States government, and cannery owners encouraged the use of local leaders to keep order in the late 1800s.¹⁵⁰ Councils developed, as in other parts of the state, partly in response to pressures from teachers, government officials and missionaries.¹⁵¹

Sealaska, the profit-making corporation, includes nine villages.¹⁵² The regional non-profit corporation, Central Council Tlingit and Haida Tribes, also is a tribal governing body, created in the 1930s to represent the Tlingits and Haidas in land claims litigation.¹⁵³ Because it is generally recognized as a tribal government,¹⁵⁴ the Central Council has worked to establish a tribal court for all of its members (see below), as well as an appellate court.

a. Metlakatla Court of Indian Offenses

One section of Southeast Alaska, the Annette Island Reserve, stands apart from the rest of the state. A group of Tsimshian Indians from British Columbia in Canada, led by the missionary William Duncan, migrated to the island in the late 1800s. At the request of the group, Congress created a reservation in 1891. Later, the community of 2,000 established a governing structure, including both traditional and IRA forms of government and a tribal court. Although Metlakatla's IRA government has a police force of five and a lock-up facility with five cells, the community relies on state criminal justice resources to a certain extent. The community is served by the state court in

¹⁵⁰ D. CASE, *supra* note 17, at 338-39.

¹⁵¹ *Id.* at 339.

¹⁵² The villages are Angoon, Craig, Hoonah, Hydaburg, Kake, Kasaan, Klawock, Saxman, and Yakutat.

¹⁵³ *Id.* at 378.

¹⁵⁴ *Id.* at 378 and n.64.

Ketchikan.¹⁵⁵ All criminal charges brought against non-Indians residing on the Annette Island Reserve are heard in state court.

Metlakatla chose to retain its status as a reserve rather than participate in the corporate structure established by the Alaska Native Claims Settlement Act. There is substantial agreement that Metlakatla is sovereign in the same sense that other Indian tribes on reservations in other states have sovereign status.¹⁵⁶ As a result, its tribal court and tribal government receive a level of recognition from the State of Alaska not accorded any other tribal organization in the State.

Metlakatla's is the oldest court in southeast Alaska. First established 102 years ago, the court serves Tlingit, Tsimshian and Haida Indians living in Metlakatla. It has jurisdiction over traffic matters and civil actions involving Indian and non-Indian residents of the reserve. BIA funds the tribal court. Budgets have ranged from \$32,000 to \$70,000, allocated largely to pay for judges' salaries and training, the court clerk, and supplies. The community currently is rebuilding the courthouse and adjoining jail.

The Metlakatla court is a court of record which applies federal law, ICWA, state and local law, and traditional law. Elders advise the court on matters of traditional law. The court's appellate branch (a four-judge panel) heard twenty-one appeals in 1992, and had another fifteen pending at year's end. The court's caseload divides roughly into three categories: criminal misdemeanors (both adult and juvenile), ICWA, and civil cases. In 1992, the court heard 478 adult and 96 juvenile cases involving criminal violations. Judges expect to hear marriages and divorces in the near future. Traditional Tsimshian law is applied in probate matters.

b. Central Council of the Tlingit and Haida Indian Tribes of Alaska

The Central Council of the Tlingit and Haida Indian Tribes of Alaska (Tlingit and Haida) serves all southeast communities except Ketchikan, Sitka, and Metlakatla.¹⁵⁷ It

¹⁵⁵ On occasion, state court criminal trials are held in Metlakatla.

¹⁵⁶ Two opinions from the U.S. Supreme Court confirm Metlakatla's status as similar to other reservations established for the benefit of Native Americans: *Metlakatla Indian Community v. Egan*, 369 U.S. 45 (1962), and *Alaska Pacific Fisheries v. U.S.*, 248 U.S. 78 (1918).

¹⁵⁷ The Central Council is composed of delegates from twenty-one communities designated in accordance with the Council's constitution and rules of election. D. CASE, *supra* note 17, at 379.

is committed to establishing a tribal court, but has yet to decide how that court will be structured. Thoughts are to have a circuit court with three judges elected by the Assembly who will travel to communities that request dispute resolution services. Each community will have its own ordinances that judges may apply along with traditional Tlingit, Haida, or Tsimshian law. Each community also will have its own clerk of court, responsible for making internal arrangements such as handling the docket. Tlingit and Haida budgeted \$40,000 in FY 1992 for the court, elected three judges, did some training, and now is focussed on the need to draft local ordinances. Because long-term funding is uncertain, however, Tlingit and Haida put final plans for the court on hold.

In the meantime, some Southeast communities have expressed a desire to have tribal courts in their own communities. With the advent of this possibility, Tlingit and Haida has reconsidered the structure of its proposed tribal court. It is possible that, instead of a circuit court, Tlingit and Haida's court will be a review or appellate court sitting in Juneau. Tlingit and Haida now plans to establish the individual community courts first, however.

Eventually, Tlingit and Haida plans to have a tribal court to hear matters arising from its status as a demonstration compact tribe.¹⁵⁸ Tlingit and Haida's contract with the Department of the Interior has a choice of forum clause requiring resolution in tribal court of disputes arising between the Tribe and the Department. Until then, however, the separate councils will make decisions on behalf of their members.

c. Ketchikan Indian Community and Chilkat Indian Village Courts

Two other Southeast communities that have tribal courts are Ketchikan and Klukwan (the village of Klukwan is served by the Chilkat Indian Village Tribal Court). The Ketchikan Indian Corporation (KIC), an IRA council, serves members of any federally recognized tribe domiciled in Ketchikan. KIC established a tribal court by resolution in 1990. The court operates in an advisory capacity by receiving notice in ICWA proceedings, working with the state DFYS on case management plans, filing ICWA petitions in state court, and attending court hearings. By resolution of the council, one judge acts for the court. Future plans are to have the tribal council sit as

¹⁵⁸ Tlingit and Haida, since 1991, has contracted directly with the Department of Interior, bypassing BIA, in what is termed a "compact" with the Department.

an appellate court. KIC is redrafting its constitution to provide for the court's exercise of judicial authority on the tribe's behalf.

To date, the KIC tribal court has conducted no adjudications. When the court grows beyond its advisory phase, it plans to apply ICWA and already-enacted tribal ordinances concerning children, domestic relations, economic development, and enrollment. The tribal court also will be the forum for any disputes that arise from KIC's contracts with suppliers. All of its contracts contain choice of forum clauses designating the tribal court as the forum for resolution of such disputes.

The Chilkat Indian Village Tribal Court serves the 120 Tlingit members of the Village of Klukwan, an IRA village. The village's constitution was amended in the mid-1970s to provide for the exercise of judicial authority, and the council passed a tribal court ordinance in 1980. The court's first case was filed in 1990. Court personnel include two judges, a judge pro tem, and a clerk. The village received a \$32,000 BIA grant in September of 1992 to provide for training and court operations. The court's judge pro tem in the court's principal case (discussed below) is paid. The court applies tribal ordinances, federal rules of civil procedure adopted by the court, and traditional law. The Chilkat Tribe also has organized a court of appeals.

The Chilkat Indian Village Court's principal case in which the federal court referred to the tribal court the question of application of a tribal ordinance against village members and a non-Native art dealer.¹⁵⁹ The ordinance prohibited alienation of artifacts (in this case a rain screen and four carved house posts) without the permission of the village council. The defendants in tribal court argue that the artifacts are their property or Whale House property (the property of a house-group which is a division of a clan), and therefore alienable at will by them. The village argues that the artifacts are clan property, and therefore not alienable without clan permission. The tribal court, with a judge pro tem sitting, denied the defendants' motions to dismiss and for summary judgment in November, 1991. At this writing, trial has been completed and judgment is pending.¹⁶⁰

¹⁵⁹ *Chilkat Indian Village v. Johnson*, 870 F.2d 1469 (9th Cir. 1989). The federal district court retained jurisdiction over the entire case, but held that all parties were required to exhaust tribal court remedies.

¹⁶⁰ The Anchorage Daily News published a series of four articles about the history of this case and some of the people involved in April of 1993.

d. Sitka Tribal Court

The Sitka Tribe of Alaska established the Sitka Tribal Court in 1981 pursuant to a tribal council ordinance creating a tribal administrative agency called the Sitka Native Child Welfare Agency and delegating to it the Tribe's authority and responsibilities under the Indian Child Welfare Act. The court has operated continuously since its inception, making it one of the longest-functioning tribal courts in Alaska. The Sitka Tribal Court was evaluated in detail in the Judicial Council's earlier report.¹⁶¹

The impetus for establishing the Sitka court came from passage of the Indian Child Welfare Act. The court was established with two primary goals in mind: to assert the Tribe's powers of self-governance by forging a judicial link between itself and other governments, and to assume responsibility for tribal children through application of federal and traditional Tlingit law in ICWA and other children's cases. The court recently has operated with one judge and a court clerk, although at times the Council has hired associate judges. The court has had the same chief judge since 1981.

The court's funding has come from various sources over the years: the Administration for Native Americans, the Bureau of Indian Affairs, and most recently, from a direct contract with the Bureau of Indian Affairs under PL 93-638.¹⁶² Nevertheless, the court has at times been unable to pay the judge and the court staff adequate salaries. The court has no facilities of its own. The Tribe provides space for a courtroom (in its community hall), and secretarial supplies.

The court's jurisdictional authority is described in tribal court rules, children's and civil procedure codes adopted by the Council in 1983.¹⁶³ The Tribe claims concurrent jurisdiction with the State in child custody proceedings; however, once the Tribe exercises jurisdiction in an Indian child welfare matter it claims exclusive jurisdiction. Nevertheless, it is the Tribe's policy to exercise jurisdiction whenever possible in a manner not inconsistent with Alaska state law.

¹⁶¹ RESOLVING DISPUTES LOCALLY, *supra* note 11.

¹⁶² PL 93-638 contracts are discussed *supra* at note 92.

¹⁶³ In addition, the Council adopted an Appellate Code by ordinance in 1987.

In its deliberations, the court applies substantive traditional Tlingit law in addition to federal law and the codes adopted by the Council. Procedural informality and an emphasis on negotiation and cooperation with state social workers¹⁶⁴ characterize the court. Although the court has held some formal hearings, it decides most matters informally, with the judge functioning as a mediator-negotiator. The court has intervened for the Tribe in ICWA cases in Alaska and elsewhere, and successfully won the transfer of some cases to tribal court. In cases involving traditional law, a Court of Elders may advise the judge. Parties have a right of appeal to the Sitka Tribal Council. The tribal and state court judges in Sitka meet on a regular basis to discuss matters of common interest.

The court handled 103 cases from 1981 through 1991. Of that total, 100 were children's proceedings (mostly guardianships and tribal child in need of aid matters) and the other three were general civil actions.¹⁶⁵ The court was most active from 1983 through 1985, when it handled fifty-one cases. Case referrals come from many sources: the state DFYS, child welfare agencies in other states, the tribal social service agency, other tribes, self-referrals, and attorneys.

★ **Regional Organization**

Central Council Tlingit and Haida
Indian Tribes of Alaska
Andrew P. Hope Building
320 West Willoughby Ave., Suite 300
Juneau, AK 99801-9983

Contact: Richard Stitt
Phone: (907) 586-1432
Fax: FAX (907) 586-8970

★ **Local Organizations**

Chilkat Indian Village Tribal Court
P.O. Box 929
Haines, AK 99867

Contact: Joe Hotch
Phone: (907) 767-5517

Ketchikan Indian Corporation
P.O. Box 5165
Ketchikan, AK 99901

Contact: Alex Tatum (Director)
Phone: (907) 225-5158

¹⁶⁴ In the mid-1980s, the court paid greater attention to documentation and formal pleadings, and conducted formal hearings more often.

¹⁶⁵ All three civil cases involved internal tribal matters.

Metlakatla Court of Indian Affairs
P.O. Box 8
Metlakatla, AK 99926

Contact: Harris Atkinson (Chief Judge)
Edward Littlefield
(Chief Appellate Judge)
Phone: (907) 886-4021
Fax: (907) 886-7997

Native Village of Saxman
Route 2, Box 1
Saxman, AK 99901

Contact Joe Williams (City Mgr)
Phone: (907) 225-4166

Sitka Tribal Court
P.O. Box 904
Sitka, AK 99835

Contact: Bill Brady (judge)
Phone: (907) 747-3207
Fax: (907) 747-4915

★ **Alaska Court System**

Magistrate John Howard, Sr.
Box 202
Angoon, AK 99820-0202
(907) 788-3229

Superior Ct Judge W. Carpeneti
Superior Ct Judge Larry Weeks
Box 114100
Juneau, AK 99811-4100
(907) 463-4741/4742
FAX (907) 463-3788

Magistrate Christine Ellis
Deputy Mag. Kay Clark
Box 646
Craig, AK 99921-0646
(907) 826-3316

District Ct Judge Peter Froehlich
Mag/Coroner John Sivertsen, Jr.
Deputy Mag. Margaret Hendon
Box 114100
Juneau, AK 99811-4100
(907) 463-4730
FAX (907) 463-4783

Magistrate Linn H. Asper
Deputy Mag. Lesley Ann Olerud
Box 169
Haines, AK 99827-0169
(907) 766-2801
FAX (907) 766-3148

Magistrate Mike A. Jackson
Box 100
Kake, AK 99830-0100
(907) 785-3651
FAX (907) 785-3152

Magistrate Maxine L. Savland
Box 260
Hoonah, AK 99829-0260
(907) 945-3668
FAX (907) 945-3445

Sup Ct Judge Michael Thompson
Sup Ct Judge Thomas M. Jahnke
Dist Ct Judge George L. Gucker
Mag/Coroner Susan Thomsen
415 Main St., Room 400
Ketchikan, AK 99901-6399
(907) 225-9876, 3197, 3195
FAX (907) 225-0572

Magistrate Gail D. Corbin
Box 36
Pelican, AK 99832-0036
(907) 735-2217
FAX (907) 735-3018

Superior Ct Judge Thomas Jahnke
Magistrate Darlene A. Whitethorn
Deputy Mag. Chris Morrison
Box 1009
Petersburg, AK 99833-1009
(907) 772-3824
FAX (907) 772-3018

Superior Ct Judge Larry C. Zervos
Magistrate Bruce E. Horton
Deputy Mag. Charlotte Swanberg
304 Lake St.
Room 203
Sitka, AK 99835-7759
(907) 747-6271
FAX (907) 747-6690

Magistrate Lucile Tidwell
Box 495
Skagway, AK 99840-0495
(907) 983-2368
FAX (907) 983-2151

Superior Court Judge Thomas Jahnke
Magistrate Linda Hartshorn
Deputy Mag. Anna Lowe
Alt. Deputy Mag. Jeanne Lukinich
Box 869
Wrangell, Alaska 99929-0869
(907) 874-2311

Magistrate Victoria Demmert
Box 426
Yakutat, Alaska 99689-0426
(907) 784-3274

12. Copper River Area

This section of the state is sparsely populated, with no large communities. Athabascan Indians inhabited the area, governing themselves in small bands. The profit-making corporation, Ahtna, includes eight villages;¹⁶⁶ the non-profit regional Native corporation is Copper River Native Association.

¹⁶⁶ The villages are Cantwell, Chistochina, Chitina, Gakona, Gulkana, Kluti Kaah, Mentasta Lake, and Tazlina.

a. Kluti Kaah Tribal Court

At Copper Center, the Native Village of Kluti Kaah has established a limited jurisdiction Tribal Tax Court, although it is not yet operational. Once operational, it may be called upon to decide the complex taxation matters at issue in a federal district court case.¹⁶⁷ Kluti Kaah also has plans to establish a general jurisdiction tribal court. This court would hear criminal misdemeanors and child welfare matters.

b. Chistochina, Mentasta Lake, and Chitina

The Chistochina and Mentasta Lake councils function as tribal courts when the need arises. The Chistochina council hears child welfare matters exclusively, while the Mentasta Lake Traditional Council considers a wider range of issues, including criminal cases. Chitina's court is in the very earliest planning stage.

In Chistochina, the council refers ICWA cases to a village social worker, hired under a grant from the Administration for Native Americans, who prepares the necessary paperwork and coordinates efforts with affected families. When the council decides to intervene in a state ICWA case, the Copper River Native Association staff attorney assists. Chistochina residents eventually hope to establish a separate tribal court in order to resolve village problems locally instead of through a "big, long, drawn-out process" somewhere far away. Before a tribal court can be established, members must complete the tribal roll, and revise the community's constitution.

In Mentasta Lake, the council recently passed an ordinance and resolution authorizing the council to act as the village court. The council receives and deliberates on a variety of complaints, most of which are alcohol-related. In criminal cases in which the council finds a serious violation of village law, a common sanction is to write a letter advising the offender that he will have to leave the village unless he stops drinking and sees the traditional counselor in the village. All members of the court go in person to deliver the letter. In both cases in which the court delivered banishment letters, the court called Troopers for back-up; outstanding warrants gave Troopers reason to remove both offenders from the village.

¹⁶⁷ See *Alyeska Pipeline Service Company v. Kluti Kaah Native Village of Copper Center*, No. A87-201 Civil (D. Alaska) Tentative Order on defendants' motions to dismiss and for summary judgment dated January 17, 1992. Assuming an eventual ruling that the Kluti Kaah constitute a sovereign tribe, the issues of the existence and extent of the tribal court's jurisdiction will, on the authority of *National Farmers Union Ins. Co. v. Crow Tribe*, 471 U.S. 845 (1985), go before the tribal court for exhaustion of tribal remedies.

The council has been called upon to handle family complaints. In one case a family violated traditional law by failing to supervise its children (one of whom was getting into trouble). The court called the family before it for an explanation. The family agreed to leave the village on its own initiative. When the family had not left a week later, the court issued a judgment ordering them to leave. The family complied.¹⁶⁸ The council also intervenes in child custody cases in state court. In two instances, the children involved were returned to the village.

★ **Regional Organization**

Copper River Native Association
Mile 104 Richardson Highway
Drawer H
Copper Center, AK 99573

Contact:
Phone: (907) 822-5241

1689 C Street, Suite 211
Anchorage, AK 99501

Contact: Paul Tony (General Counsel)
Phone: (907) 272-2762
Fax: (907) 274-2329

★ **Local Organizations**

Chistochina Village Council
P.O. Box 241
Gakona, AK 99586

Contact: Evelyn Beeter
Phone: (907) 822-3503

Chitina Village Council
P.O. Box 31
Chitina, AK 99566

Contact: Judy Salomon (Administrator)
Phone: (907) 823-2215
Fax: Fax (907) 823-2215

Native Village of Kluti Kaah
P.O. Box 68
Copper Center, AK 99573

Contact: Shirley Miller (Project Director)
Phone: (907) 822-5541

Mentasta Lake Village
Traditional Council
P.O. Box 6019
Mentasta, AK 99780

Contact: Norman Ewan (First Chief)
Phone: (907) 291-2319

¹⁶⁸ According to one village leader, the Mentasta Lake council derives much of its authority in the village from the fact that its members all are sober. Members support community activities that encourage sobriety, such as opening the gym in the evenings for basketball and sponsoring Alcoholics Anonymous meetings.

★ **Alaska Court System**

Magistrate Jean Wilkinson
Deputy Mag. Linda Woodcock
Box 86
Glennallen, Alaska 99588-0086
(907) 822-3405

Superior Court Judge Glen Anderson
Magistrate (vacant)
Box 127
Valdez, Alaska 99686-0127
(907) 835-2266

Magistrate Allen Vaira
Deputy Mag. Evelyn Carson
Box 187
Tok, AK 99780-0187
(907) 883-5171/2

Table 2
Tribal Courts and Councils Active in Dispute Resolution
Rural Justice Directory and Report: 1993
April, 1993

Area	Tribal Courts	Councils Active in Dispute Resolution	
North Slope <i>(8 villages)</i>	Pt. Hope ICAS and NVOB both planning tribal courts	Inupiat Community of Arctic Slope NVOB - Native Village of Barrow Arctic Slope Native Association	
Kotzebue Sound <i>(11 villages)</i>	Planned or active courts: Kiana Selawik	Ambler Buckland Deering Kivalina Kobuk	Kotzebue Noatak Noorvik Selawik Shungnak
Bering Straits <i>(17 villages)</i>	All have tribal court ordinances: Brevig Mission Diomede Gambell King Island Koyuk Mary's Igloo Nome Eskimo Community Saint Michael Shaktoolik Shishmaref Stebbins Teller Unalakleet Wales White Mountain Western Alaska Intertribal Court System - planned appellate, possibly trial court	Savoonga Golovin	
Yukon/Kuskokwim <i>(56 villages)</i>	Planning or have established a court: Akiachak Chevak Goodnews Bay Kipnuk Kotlik Kwethluk Kwigillingok Mekoryuk St. Mary's Toksook Bay Yupiit Nation has regional and appellate courts planned	Akiachak Akiak Atmautluak Chevak Chuathbaluk Emmonak Goodnews Bay Hooper Bay Kipnuk	Kotlik Kwethluk Kwigillingok Lower Kalskag Mekoryuk Mt. Village Napakiak Saint Mary's Scammon Bay Toksook Bay

Area	Tribal Courts	Councils Active in Dispute Resolution																																											
Bristol Bay <i>(29 villages)</i>	Nondalton (planned) New Stuyahok (planned) Togiak (active)	Aleknagik Dillingham Ekwok Manokotak Naknek New Stuyahok Nondalton Port Heiden Togiak																																											
Aleutians <i>(13 villages)</i>	No courts; none planned	Akutan St. George St. Paul																																											
Kodiak <i>(6 villages)</i>	No courts; Kodiak Tribal Council and Kodiak Area Native Association planning courts	Akhiok Larsen Bay																																											
Interior Doyon <i>(34 villages)</i>	Served by TCC: Chalkyitsik Eagle Hughes Minto Nenana Northway Tanacross Not served by TCC: Tanana	<table border="0"> <tr> <td>Alatna</td> <td>Lake Minchumina</td> </tr> <tr> <td>Allakaket</td> <td>Manley</td> </tr> <tr> <td>Anvik</td> <td>McGrath</td> </tr> <tr> <td>Arctic Village</td> <td>Medfra</td> </tr> <tr> <td>Beaver</td> <td>Minto</td> </tr> <tr> <td>Birch Creek</td> <td>Nenana</td> </tr> <tr> <td>Canyon Village</td> <td>Nikolai</td> </tr> <tr> <td>Chalkyitsik</td> <td>Northway</td> </tr> <tr> <td>Circle</td> <td>Nulato</td> </tr> <tr> <td>Dot Lake</td> <td>Rampart</td> </tr> <tr> <td>Eagle</td> <td>Ruby</td> </tr> <tr> <td>Evansville</td> <td>Shageluk</td> </tr> <tr> <td>Fort Yukon</td> <td>Stevens Village</td> </tr> <tr> <td>Galena</td> <td>Takotna</td> </tr> <tr> <td>Grayling</td> <td>Tanacross</td> </tr> <tr> <td>Healy Lake</td> <td>Tanana</td> </tr> <tr> <td>Holy Cross</td> <td>Telida</td> </tr> <tr> <td>Hughes</td> <td>Tetlin</td> </tr> <tr> <td>Huslia</td> <td>Venetie</td> </tr> <tr> <td>Kaltag</td> <td>Wiseman</td> </tr> <tr> <td>Koyukuk</td> <td></td> </tr> </table>		Alatna	Lake Minchumina	Allakaket	Manley	Anvik	McGrath	Arctic Village	Medfra	Beaver	Minto	Birch Creek	Nenana	Canyon Village	Nikolai	Chalkyitsik	Northway	Circle	Nulato	Dot Lake	Rampart	Eagle	Ruby	Evansville	Shageluk	Fort Yukon	Stevens Village	Galena	Takotna	Grayling	Tanacross	Healy Lake	Tanana	Holy Cross	Telida	Hughes	Tetlin	Huslia	Venetie	Kaltag	Wiseman	Koyukuk	
Alatna	Lake Minchumina																																												
Allakaket	Manley																																												
Anvik	McGrath																																												
Arctic Village	Medfra																																												
Beaver	Minto																																												
Birch Creek	Nenana																																												
Canyon Village	Nikolai																																												
Chalkyitsik	Northway																																												
Circle	Nulato																																												
Dot Lake	Rampart																																												
Eagle	Ruby																																												
Evansville	Shageluk																																												
Fort Yukon	Stevens Village																																												
Galena	Takotna																																												
Grayling	Tanacross																																												
Healy Lake	Tanana																																												
Holy Cross	Telida																																												
Hughes	Tetlin																																												
Huslia	Venetie																																												
Kaltag	Wiseman																																												
Koyukuk																																													
Cook Inlet <i>(6 villages)</i>	Chickaloon Kenaitze Tribe	Chickaloon Eklutna Ninilchik Seldovia Tyonek																																											
Prince William Sound <i>(6 villages)</i>	No Courts	Nanwalek (English Bay) Port Graham Tatitlek																																											
Copper River <i>(8 villages)</i>	Kluti-kaah (has tax court; general court planned) Mentasta Lake	Chistochina Chitina Kluti-kaah																																											

Area	Tribal Courts	Councils Active in Dispute Resolution
Southeast <i>(21 villages)</i>	Chilkat Indian Village (Klukwan) Ketchikan Metlakatla Sitka Central Council Tlingit and Haida planning appellate court	Saxman
Total Villages: 218	33 active; 16 planned; 5 regional groups (ICAS, Western Alaska, Yupiit Nation, KANA, Central Council)	99

Alaska Judicial Council
 April 1993

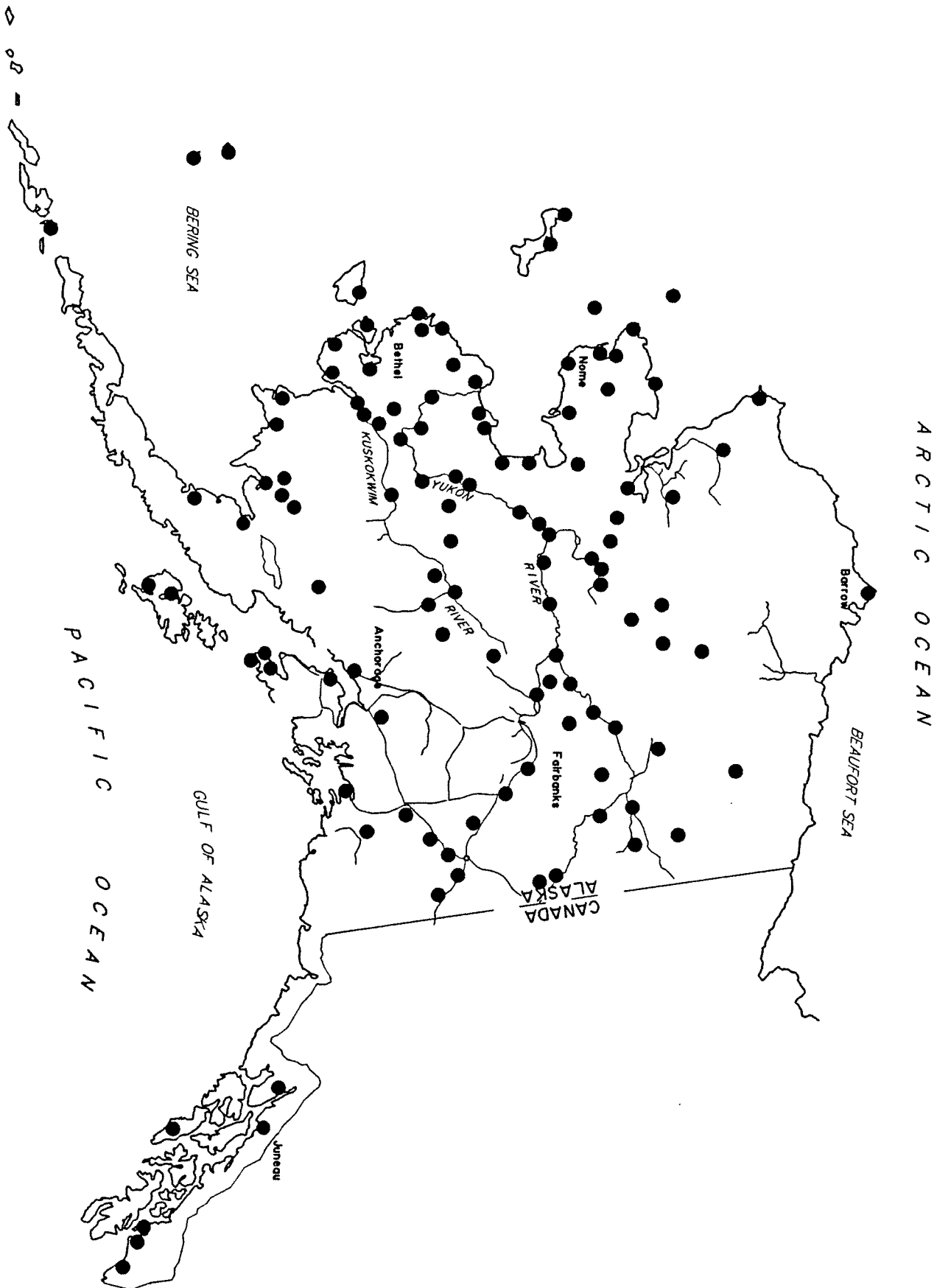
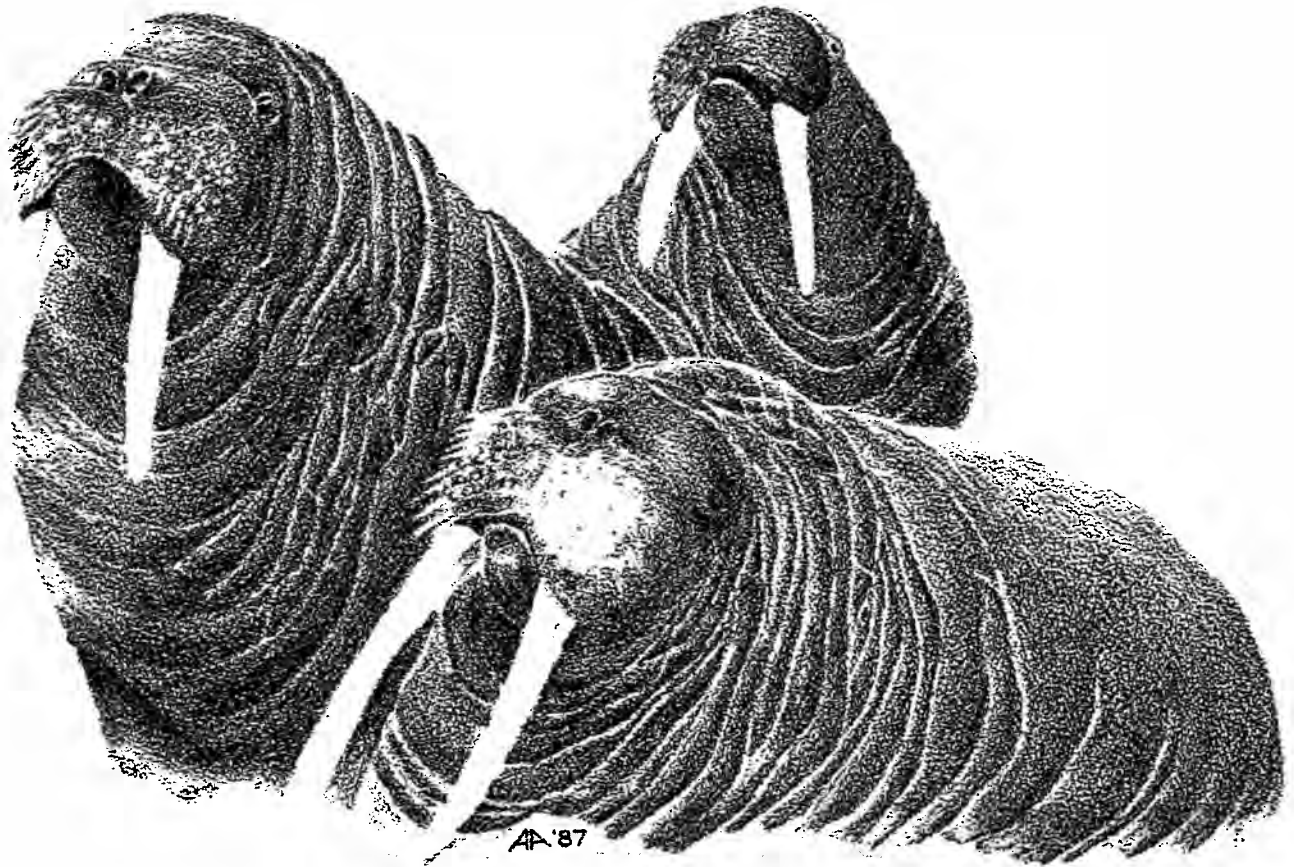


Figure 3
Location of Alaskan Tribal Courts and Councils
Alaska Judicial Council

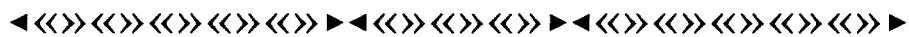
Walrus



© A.A. Dean
Alaska Department of Fish and Game 1987

Part III:

Interactions With State Agencies



A. Introduction

This part of the report discusses the interactions of tribal courts, councils and dispute resolution organizations with state governmental agencies. The chapter emphasizes interactions with state agencies for two reasons: first, the legislature funded this report at least in part to provide information for use by state agencies; and second, a large number of the interactions that occur are with state agencies. However, the regional Native non-profit corporations play significant roles in the work of the tribal courts and councils, as do local governments, and more indirectly, the federal government.

The state agencies that interact most frequently with tribal courts, councils and other dispute resolution organizations are the Departments of Public Safety, Health and Social Services (especially the Division of Family and Youth Services or DFYS), Law, and Corrections. The local organizations also interact with the state courts, and to some extent with the Public Defender Agency and the Office of Public Advocacy (some interactions with these latter two agencies may be in the context of criminal cases, but both agencies also are involved in children's matters). Most interactions come in the context either of Indian Child Welfare Act cases, other family matters, or criminal and quasi-criminal matters. Most of the dispute resolution organizations in smaller communities rarely handle other civil matters (such as contracts, landlord-tenant

disputes, disagreements about business matters, and so forth).¹⁶⁹ Occasionally, tribal courts and councils deal with matters of probate and traditional customs.¹⁷⁰

Tribal courts in Alaska, with the exception of Metlakatla,¹⁷¹ do not enjoy full recognition from the state and federal governments. Consequently, most of the interactions described in this section are informal. Arrangements worked out on a case-by-case basis with state agency personnel and judges may not carry over to the next case. Changes in personnel, either in the tribal court/council or in the state agency, may require that any existing informal agreements be reworked or abandoned. The lack of formality may lead to problems in carrying out the terms of the agreement. It also has led to invisibility for many of the tribal courts and councils. In some cases, the tribal court or council prefers to operate with less fanfare; in other situations, greater recognition is sought.

Despite the informality, some arrangements have withstood the test of over a decade of work, particularly those with VPSOs and with state social workers in some parts of the state. The past decade has brought crafting of a social services agreement for children's cases,¹⁷² sponsorship by nearly every regional Native non-profit corporation of tribal court support and training, and a series of reports and programs from various sources oriented to increasing knowledge about tribal courts and

¹⁶⁹ PACT, in Barrow, is an exception because most of its cases fit into this category. However, the origins of PACT are very different than those of the typical tribal court or council. See *RESOLVING DISPUTES LOCALLY*, *supra* note 11, at 111.

¹⁷⁰ See, e.g., *Chilkat Indian Village v. Johnson*, 870 F.2d 1469 (9th Cir. 1989).

¹⁷¹ The primary difference is that Metlakatla's status as a reservation with "Indian country" is agreed-upon by the federal and local governments, and to a lesser extent, by the State. For a detailed discussion of tribal court status in the rest of the state, see *RESOLVING DISPUTES LOCALLY*, *supra* note 11, at Chapter III. The history of Metlakatla is discussed *supra* at pages 79-80.

¹⁷² The State-Tribal Indian Child Welfare Act Agreement of 1990 is discussed *infra* at pages 102-103.

councils.¹⁷³ Federal case law (but not state case law) has increased the legal grounds for recognizing tribal courts.¹⁷⁴

This section of the report describes the interactions that were documented as of early 1993. The interactions reported should be used more as a general guide to what may be the current situation in a given area than as a firm statement of exactly what exists at this time. Persons referring to the report in the future also should keep in mind that the informality of arrangements, the rapidly changing case law and other factors such as state agency funding may have altered the situations described substantially.

B. Department of Public Safety

Three components of the State's Department of Public Safety provide most law enforcement in the rural areas of the State: the Trooper program, the Village Public Safety Officer Program (VPSO), and the Division of Fish and Wildlife Protection. Additional law enforcement may be provided by local governments. For example, some villages have a village police officer, sometimes in addition to a VPSO. The North Slope Borough provides law enforcement for Barrow and the other seven villages of the Slope.¹⁷⁵ Federal Marshals occasionally become involved in law enforcement in villages, but their presence typically is associated with high-profile fish or game offenses. Most day-to-day law enforcement, especially for more serious offenses, remains the province of the Alaska State Troopers.

¹⁷³ For example, in the past eighteen months, the Alaska Judicial Council published its report, *RESOLVING DISPUTES LOCALLY: ALTERNATIVES FOR RURAL ALASKA*; the Alaska Bar Association Native Law Section sponsored a Continuing Legal Education program focussing in part on tribal courts; the Department of Public Safety held a training conference for its top management at which tribal courts and councils were discussed extensively; the 1992 Alaska Judicial Conference for all state court judges featured a half-day discussion of tribal courts; the Bureau of Indian Affairs sponsored workshops on tribal courts at a conference in December of 1992; and the Falmouth Institute conducted training programs in Alaska for Native communities interested in establishing tribal courts. All of these activities were in addition to BIA and other agency-sponsored assistance to regional Native non-profit corporations for tribal courts, and extensive work by the regional non-profits and local groups on their own.

¹⁷⁴ For a discussion of these federal and state cases, see *RESOLVING DISPUTES LOCALLY*, *supra* note 11, at Chapter III.

¹⁷⁵ The North Slope Borough provides training equivalent to State Trooper training for its officers. At least two are stationed in each village. All are non-Native.

1. Troopers

State Troopers serve all rural areas of the State, with fewer Troopers per capita on the North Slope because of the Borough's police force. Troopers also serve the urban areas, but typically only those sections not covered by urban law enforcement. Troopers train at the Department's academy in Sitka, and are certified by the Alaska Police Standards Council. Thirty-one posts located in communities without a superior court supplement twelve posts (plus Anchorage) situated in hub areas.

The Department of Public Safety does not routinely send Troopers to villages to provide a presence or support for local law enforcement. However, a village crisis probably will precipitate a request for Trooper assistance. Depending on weather conditions, availability of staff and access to transportation, response time to a request varies from an hour to several days.¹⁷⁶ The Trooper visit to the village may center on first aid, investigation of a crime, or both. Return to the village for follow-up investigation is costly and may be difficult to do in a timely fashion.

The range of actions available to a Trooper resembles that used by most other law enforcement officers. The Trooper may avoid filing charges altogether, if he or she believes that the situation warrants it. Troopers may assist disputants to resolve the situation through mediating or negotiating a settlement acceptable to all parties. Elders, village councils and local officials may be consulted before the Trooper decides whether to file charges, or what charges to file.

How the Trooper files charges in conjunction with the District Attorney depends on the policies of the local DA's office. Some DAs screen a high percentage of their cases; others rely more, for a variety of reasons, on the charge initially filed by the Troopers.¹⁷⁷ There are substantial differences in the levels of charges filed in different areas of the State.¹⁷⁸ Attorneys and others cite several reasons for these differences, including differences in community expectations and standards, victim ties to offenders,

¹⁷⁶ Winter storms, fog, rain or winds can prevent transportation to and from a village for several days. For most small villages, the only means of transportation in and out are planes (usually year-round) or boats in the summer, and snowmachines or land vehicles in the winter. For example, residents of Mentasta noted that in a recent incident where a drunk person was threatening people in the village with a weapon, Troopers did not arrive until two days after the first report.

¹⁷⁷ ALASKA JUDICIAL COUNCIL, ALASKA'S PLEA BARGAINING BAN RE-EVALUATED 46 (January 1991).

¹⁷⁸ *Id.*

offender's role in the family or village society, difficulties of collecting evidence in isolated communities, and lack of resources.

Interviews with Troopers, villagers, judges, attorneys, and others over the past few years have brought to light some instances of Trooper cooperation with tribal courts and councils. These have included Trooper decisions to have a council handle a probation violation (rather than filing a probation revocation), Trooper referrals of original offenses to a tribal court, and Trooper consultation with councils and courts about the disposition of a case. Administrators within the Department have recently commented that they believe that encouraging village entities to handle "minor incidents" is helpful both for villages and Troopers. Although the official state position remains that tribal courts and councils are not parts of sovereign governments, the Department apparently is willing to work informally with local dispute resolution organizations.

Other avenues for Trooper-Tribe cooperation exist and are being explored. For example, in September of 1992 Kawerak was awarded a two-year grant from the Administration for Native Americans to study juvenile delinquency matters involving substance abuse and misdemeanor theft. As part of that initiative, Kawerak's Tribal Attorney has contacted a Trooper captain and the state juvenile probation agency to create a working relationship, or at least a tacit acknowledgment, that the villages will enforce their own local laws against substance abuse by minors (specifically, inhalant abuse) and misdemeanor theft.¹⁷⁹ These two areas are particularly good ones for tribal enforcement, because the State has no laws against inhalant abuse and typically lacks the funds to deal with misdemeanor thefts in remote areas.

2. Village Public Safety Officers (VPSOs)

Repeated requests by villages for more local assistance than Troopers were able to provide led to the VPSO program, formally established in 1982 in the Department of Public Safety. Envisioned as a non-armed position, the VPSO has responsibility for fire-fighting, boat safety, first aid, and law enforcement. Troopers provide oversight and backup, but the Department of Public Safety contracts with village governments to hire and supervise the VPSOs. Eighty-five villages have VPSOs, and an additional thirty-nine

¹⁷⁹ Letter from L. Devaney, Kawerak Tribal Attorney, to Captain T. Stearns, Statewide VPSO Program Coordinator (Jan. 22, 1993).

have unfilled VPSO slots.¹⁸⁰ VPSOs receive six weeks of training at the Department of Public Safety's Training Academy in Sitka.

Official policies in the Departments of Law and Public Safety for handling the criminal portions of the VPSOs' work place control over decisions outside the village. The VPSO reports incidents to the oversight Trooper, who then investigates, makes charging decisions and forwards cases to the District Attorney's office for prosecution. In practice, the system does not always work well because of limited resources for the Troopers to investigate and handle cases, and because of weather and other difficulties that prevent Troopers from getting to the villages. The lack of responsiveness, particularly in misdemeanor cases, although explicable, concerns villagers, and has created part of the impetus for increased local control.

Some VPSOs spend a fair amount of their time working with the local council or tribal court, referring cases there rather than to the Troopers. The VPSO still refers offenses that may be difficult, whether because of their inherent seriousness or because of family and social relationships, directly to the Troopers. Typically, the VPSO charges the offender with a violation of a village ordinance, rather than a state offense, although often offenders could be charged under either or both. The VPSO then sets a date for the offender to appear before the tribal court or council, rather than referring the case on to the Trooper.¹⁸¹ The VPSO may appear before the tribal court or council to testify about the offense or the offender, although because the proceeding often does not focus either on fact-finding or decisions about guilt and innocence, the VPSO may not be needed. Troopers, villages and VPSOs all seem relatively satisfied with these arrangements, believing they respond more adequately to villages' needs.

The VPSO can be a crucial element in the success of a tribal court or council that is resolving disputes. An earlier study of the Minto Tribal Court found that when the village was without a VPSO, the caseload dropped to almost nothing.¹⁸² Although village police officers and other law enforcement also can refer cases to tribal courts or councils, in many villages, the VPSO remains the most likely person to actually make

¹⁸⁰ Information from the Department of Public Safety, November, 1992.

¹⁸¹ Recently, the Department of Public Safety has asked VPSOs to track the number of cases they refer to a local entity rather than to the Troopers. The VPSO also can mediate disputes directly, and as with all law enforcement officers, a certain amount of this occurs routinely.

¹⁸² RESOLVING DISPUTES LOCALLY, *supra* note 11, at 88-89.

referrals. High turnover or absence of a VPSO can severely limit the ability of a village to resolve its own disputes.

Allegiances in the VPSO program have the potential to be mixed. Does the VPSO work for the village council, or for the Troopers? In some parts of the State, VPSOs are referred to as "baby Troopers;" in others, they tend to take direction from the local council rather than the Troopers. An even more complex situation arises when the village maintains both a city government under state laws, and a traditional council or an IRA council. The Department of Public Safety requires the regional Native non-profit corporations (that distribute VPSO funds to the villages) to contract with *city* governments whenever possible. Strain in relations between the two entities can create difficulties for the VPSO.

The VPSO program has had a stormy history. Turnover historically has been very high (reaching 50% per year at times) for several reasons.¹⁸³ Pay is relatively low, conditions can be dangerous, hours are long (often, VPSOs are expected to provide law enforcement at night as well as work a regular day-time shift), and the social relationships can be very difficult. Some of the villages have no place to hold offenders, no matter how drunk or dangerous they may be. Others have lock-ups that may be no more than a room in the VPSO's house, or may be part of a municipal building.¹⁸⁴

The future of the VPSO program, given state budget cuts, may be in doubt. High turnover results in substantial position vacancy rates. Only half of the vacant positions could be filled, even if applicants were available, because funding is not available.

¹⁸³ J. ANGELL, *supra* note 29, at 88.

¹⁸⁴ In 1992, the Department of Public Safety contracted with nineteen communities and local governments for jails that it operated separately from the Department of Corrections institutions. The local governments were Bristol Bay and North Slope Boroughs; the communities were Cordova, Craig, Dillingham, Emmonak, Haines, Homer, Kake, Kodiak, Kotzebue, Petersburg, Seldovia, Seward, Sitka, Unalaska, Valdez, Whittier, and Wrangell. The nineteen jails have eighty cells with a total of 182 beds. Seventy-one other communities have "holding facilities." These include two court building lockups (Anchorage and Juneau), and three others operated by the Troopers (Tok, Fort Yukon, and Yakutat), and seventy-four owned and operated by the local community.

C. Department of Health and Social Services

The Department of Health and Social Services interacts routinely with tribal organizations and rural residents, especially through its Division of Family and Youth Services. Some interaction is mandated by the Indian Child Welfare Act's requirement that tribal councils be notified in some types of child custody cases, and some interaction is voluntary and less formal. State social workers may spend substantial amounts of time working directly with councils, tribal courts, and other Native organizations.¹⁸⁵ The Department has social workers in thirty-six communities throughout the state, providing more direct contact with residents of rural areas than many other justice-related agencies can afford. In addition, most of the regional Native non-profit corporations and many village corporations employ their own social workers who interact with DFYS. The State has drafted voluntary protocols to govern interactions with traditional councils.

The Indian Child Welfare Act State-Tribal Agreement, signed in 1990, is a formal "government to government" agreement defining mutual powers and responsibilities between each tribe entering into the Agreement and the State.¹⁸⁶ It contains unprecedented concessions by the State for tribal participation in child welfare cases. By early 1993, only twenty-eight tribes had signed the Agreement.¹⁸⁷ Some tribes declined to sign in part because the Agreement leaves unresolved issues of tribal courts, jurisdiction, and state funding for social services and children placed in foster care by a tribe.¹⁸⁸ However, some tribes that declined to sign the Agreement, such as Kawerak, contract with the State to provide case management services to the family and the

¹⁸⁵ The Sitka Tribal Court and Sitka Tribe are excellent examples of this type of close cooperation; social workers for both the tribe and the State say that they communicate daily about cases, and make many joint decisions about whether a situation would be handled better by the state court or the tribal court. Social workers in both organizations manage varied caseloads that include some ICWA cases, but also many other child and family-related matters.

¹⁸⁶ Indian Child Welfare Act State-Tribal Agreement, section I, page 1.

¹⁸⁷ ALASKA DEP'T OF HEALTH AND SOCIAL SERVICES, DIVISION OF FAMILY AND YOUTH SERVICES ANNUAL REPORT: MARCH 1993, at 59 (1993).

¹⁸⁸ The Sitka Tribal Court, for example, signed the agreement; the Minto Tribal Court did not.

State.¹⁸⁹ In addition, the State and some tribes that did not sign the Agreement informally follow the Agreement's protocols.¹⁹⁰

At an informal level, tribal social workers receiving information about a child in need often report that fact to the state social worker, who also sends information back to the tribal social worker. Together, the social workers negotiate and implement case management plans. For example, upon receiving a report of child neglect in the Nome area, DFYS asks Kawerak's tribal social workers to find an extended family placement for the child.¹⁹¹ In addition, Kawerak recently established an agency for adoptions that offers services statewide and is developing a system for licensing Native foster homes.

The state social worker in Dillingham also has a cooperative arrangement with local tribal courts/councils. The social worker uses the councils to monitor families' progress and report back to him, and also to give him advice and information about the families involved.¹⁹² The social worker has found that working through the tribes defuses much of the antagonism between the social worker and the family, allowing the social worker to develop better long-term relationships with the family, and therefore to intervene more effectively. The tribes benefit by being able to maintain some control over the State's decision to remove children in need of aid, while at the same time knowing that the State will intervene when necessary.

In communities with close working relationships between state and tribal social workers, like Sitka, social workers refrain from asking the court for a disposition until and unless they agree on how the case should be handled. Depending on the seriousness of the case and the level of care necessary for the child, a case may be referred either to state or tribal court.

¹⁸⁹ No Bering Straits villages have signed the State-Tribal ICWA Agreement. Kawerak, however, has negotiated other interagency agreements and is working toward a cooperative agreement with the Anchorage DFYS office that will ease the "bottleneck" that results when children enter the state system in Anchorage.

¹⁹⁰ In at least one recent case, the State issued a temporary foster license to a family in one village, enabling a child who would otherwise have been taken away from the village to remain there.

¹⁹¹ Kawerak does not handle cases of on-going neglect or those involving physical or sexual abuse. This working agreement is essentially the same as the one that DFYS maintains with the tribal social workers in Sitka.

¹⁹² The Dillingham social worker has cooperative arrangements with the tribal councils/courts in the communities of Dillingham, Ekwok, Manokotak, New Stuyahok, and Togiak.

In other communities, poor communication between state and tribal social workers cause tribal workers to complain that they are excluded from the case management process and, indeed, sometimes do not receive necessary paperwork. This lack of communication is a problem especially when the state social worker works in an urban setting and the tribal worker is in a rural location, though such problems also exist between urban state and tribal workers. Tribal social workers report a generally poor understanding of ICWA among urban state social workers. One urban tribal organization has tried to remedy this situation by encouraging joint state-tribal training sessions.

D. Department of Law

The Department of Law has represented the State in varied litigation over the issue of sovereignty. The present administration has stated that "the State of Alaska opposes expansion of tribal governmental powers" ¹⁹³ This position is consistent with state court decisions, especially *Native Village of Stevens v. Alaska*, ¹⁹⁴ in which the majority of the court concluded that the federal government had not recognized Alaska Native villages as sovereign tribes, finding that "Congress has demonstrated its intent that Alaska Native communities not be accorded sovereign tribal status." ¹⁹⁵ The Department of Law has not established policies for formal dealings with tribal courts, either in its civil division or in the criminal division. However, individual assistant attorneys general, district attorneys and assistant district attorneys work with tribal governments in various ways, or take a "hands-off" approach to the work of tribal courts.

¹⁹³ Admin. Order #125, August 16, 1991 (signed by Gov. W.J. Hickel). This policy differs from that of the previous governor, Steve Cowper. In 1990, the Cowper administration established a tribal status policy acknowledging that many, but not all, Alaska Native groups could qualify for tribal recognition under federal law, and pledging to treat as a tribe any Alaska Native group that could qualify, even if it had not actually gone through the formal process. The Order further acknowledged that tribes that do not occupy reservations have some powers, but questioned the extent of the powers. Admin. Order # 123, Sept. 10, 1990 (signed by Gov. S. Cowper).

¹⁹⁴ 757 P.2d 32 (Alaska 1988).

¹⁹⁵ *Id.* at 41. As noted earlier in this report, the Judicial Council does not take any position regarding the issues of sovereignty, but believes that organizations resolving disputes in rural areas can work to the benefit of all parties outside the context of the sovereignty issues.

1. Criminal Division

District Attorneys and assistant district attorneys may decide not to file charges, or to file reduced charges in the "interests of justice." They may believe that a crime does not warrant prosecution, or that the victim and offender have reconciled, or that a village does not want that particular defendant prosecuted for legitimate reasons. They may or may not know or expect that a tribal council will handle the offense if it is not prosecuted.

Individual district attorneys and their assistants describe village roles as useful in situations like Minto, where the District Attorney's office has prosecuted only a handful of cases, all felonies, in the past several years.¹⁹⁶ A Fairbanks Assistant District Attorney credited the Minto Tribal Court and the Minto residents for reducing crime in the village, and noted that several other Interior villages, including Tanana, had equally few offenses that came to the attention of the District Attorney's office. The prosecutors also have described situations in which a tribal court or village council offered information about an offender's past actions that was helpful in sentencing, or in which the tribal court or council played a role in supervising an offender's sentence.

2. Civil Division

Most civil law interactions between the Department of Law and villages come in the context of the Indian Child Welfare Act. ICWA requires that the tribe be notified in involuntary child custody proceedings. Although the State contends that PL 280 stripped tribes of jurisdiction and that no Alaska tribes have met the requirements for gaining concurrent jurisdiction,¹⁹⁷ it maintains a list of tribal councils and notifies them in involuntary proceedings. As mentioned elsewhere, tribal courts in Alaska do regularly receive jurisdiction in ICWA cases from other states.

The protocols established in the 1990 Indian Child Welfare Act State-Tribal Agreement¹⁹⁸ are followed by the Department of Law. Other interactions arise during litigation over issues of taxation, fish and game management, and other regulatory

¹⁹⁶ RESOLVING DISPUTES LOCALLY, *supra* note 11, at 140.

¹⁹⁷ See *Native Village of Nenana v. Dep't. of Health*, 722 P.2d 219 (Alaska 1986).

¹⁹⁸ The State-Tribal Agreement is discussed *supra* at pages 102-103.

activities. Because of the individual nature and complexity of these interactions, they will not be discussed further in this report.

E. Public Defender, Office of Public Advocacy

The Public Defender Agency presently has no official policies regarding tribal courts and councils. Individual assistant public defenders, however, interact with tribal courts and councils occasionally in the context of representing criminal defendants. A Public Defender client may ask the attorney to request that the case be transferred to the jurisdiction of the tribal court or council. In one such case, the Assistant Public Defender reported that a client from Kipnuk, who was convicted after a jury trial for an offense that occurred in Kipnuk, said that Kipnuk had a tribal court and asked the state court judge to transfer his case to the tribal court for sentencing.¹⁹⁹ In another case, the defendant had his attorney file a motion asserting that Akiachak has a tribal court and asking that his case be transferred to the Akiachak tribal court, despite the fact that the alleged offense occurred in Bethel.²⁰⁰ Council staff do not know of any cases in which the change of jurisdiction to tribal court or council actually has occurred.

The assistant public defender, like the prosecutor and other criminal justice agencies, may hear from the tribal court or council about the offender's character, previous actions, and history. Again, if presenting this information to the state court appears to serve the client's interests, the assistant public defender will make use of it. A few attorneys apparently have even sought out the council or tribal court's involvement, and worked directly with these organizations to negotiate case dispositions that would satisfy the needs of the victim and community as well as the offender. However, most assistant public defenders do not routinely interact or initiate contact with tribal courts or councils, even when they are working in small communities.

In contrast, the Office of Public Advocacy (OPA), has frequent contact with councils and some tribal courts. OPA provides court-appointed guardians ad litem in many types of children's cases, as well as handling criminal cases in which the Public Defender Agency has a conflict of interest with one or more of the defendants. Most of the OPA contact comes through children's cases. Although the contacts tend to be informal and the agency does not have an official policy about interactions with Native

¹⁹⁹ *State v. Aliralria*. The Kipnuk Tribal Court apparently has five members.

²⁰⁰ *State v. Peter Lomack*, 4BE S92-243.

organizations, the head of the Guardian ad Litem program noted that her staff worked with some councils routinely, and with others periodically. She listed thirty Native village councils that her Anchorage staff alone had worked with during the past few years.²⁰¹ Other villages may not act in children's cases, she hypothesized, because they lack an active council or because they do not have information about the steps needed to become involved in ICWA or other children or family matters.

F. Alaska Court System

1. Superior and District Courts

The interactions among the state courts and tribal courts and councils have not been frequent, but have occurred far more often than the direct interactions of the tribal courts and councils with prosecutors and Public Defender Agency. In one instance, a state court judge has met regularly with his tribal court counterpart, and in some cases judges have left the disposition of children's cases up to the tribal court or council.

In other situations, judges have worked on a case-by-case basis with tribal courts or councils in criminal cases. The most typical interaction comes at sentencing when the tribal organization provides information to the judge about the offender. Less frequently, the judge may impose a sentence in which the tribal organization supervises the offender's probation or community work service, or participates somehow in an aspect of the sentence. For example, the Tanana Tribal Court appears to enjoy a good relationship with the Fairbanks Superior Court. The Fairbanks Superior Court has on occasion asked the village council to monitor offenders' sentences. The judges in the Second Judicial District regularly invite comment from village councils at the time of sentencing and also may ask the council to meet with the offender, supervise community work service, or take other actions.

The courts' interactions with tribal courts or councils have occurred for at least the past two decades, and more often reflect an individual judge's willingness to work with a wide range of community groups at sentencing than any conscious policy

²⁰¹ Communities which interact with the guardians include Barrow and Point Hope (North Slope); Kiana and Kotzebue (Kotzebue Sound); Nome, Savoonga, Selawik and Stebbins (Bering Straits); Chuathbaluk, Emmonak, Hooper Bay, Kotlik, Lower Kalskag, Mountain Village, St. Mary's and Toksook Bay (Yukon-Kuskokwim Delta); Aleknagik and Naknek (Bristol Bay); Akutan, Port Heiden, St. George and St. Paul (Aleutian); Nanwalek, Port Graham and Seldovia (Cook Inlet); and Anvik, Minto and Shageluk (Interior). This listing is not comprehensive; the information comes from a brief survey of guardians ad litem working through the Anchorage office.

decisions about the status of tribal courts or councils by the court system as a whole. Tribal courts or councils that have participated in state criminal court proceedings include Kluti Kaah, Kipnuk, Kivalina, and Tanana. Other tribal courts or councils, such as Akiachak, Chickaloon, and Aleknagik, have at times protested the State's right to try a particular person on criminal charges, or have in some other way attempted to intervene in state court proceedings.

2. Magistrate Courts

The court system historically has served the smaller communities of the State through a combination of magistrates in about forty rural communities and single-judge superior courts (which is the court of general jurisdiction) located in the hub communities (Barrow, Bethel, Kodiak, Kotzebue, Nome, Petersburg-Wrangell, Sitka, and Valdez. Homer, Kenai, Ketchikan, and Palmer all have different combinations of district and superior court judges; all serve smaller communities as well). Judges in Anchorage, Fairbanks and Juneau also travel to villages and smaller communities as needed. None of the judges "ride a circuit," in the sense that they make regular appearances in each community. If judges go to a village to hear a case, it may be the one time in several years that anyone (other than Troopers) from the justice system has come into the village. If the judge does go to a village, typically the attorneys in the case (almost always a criminal case) go as well. The court has established thirty-nine sites (including the fifteen superior court locations) at which superior court jury trials can be held.²⁰²

Concerns with rural justice needs during the first twenty years of statehood led to consideration of various means of efficiently providing court services in remote locations. The court used magistrates (appointed by and serving at the pleasure of the judicial district's presiding judge) from statehood on, expanding the number substantially during the 1970s. The court set standards for communities wanting a magistrate, including the presence of law enforcement personnel, the number of people in the area to be served, and availability of suitable facilities for court, and for related law enforcement needs. Magistrates in smaller communities tend to be local residents, often Natives; those in the larger communities (especially those associated with the

²⁰² The sites are Anchorage,* Angoon, Barrow,* Bethel,* Cordova, Craig, Delta Junction, Dillingham, Fairbanks,* Glennallen, Haines, Healy, Homer,** Hoonah, Juneau,* Kake, Kenai,* Ketchikan,* Kodiak,* Kotzebue,* Naknek, Nenana, Nome,* Palmer,* Pelican, Petersburg,* Saint Paul, Sand Point, Seldovia, Seward, Sitka,* Tok, Unalaska, Valdez,* Whittier, Wrangell,* Yakutat (*=superior court seat; **=district court judge only). Unalakleet and Fort Yukon also are designated as sites for superior court trials, and another seventeen sites are designated as misdemeanor trial locations.

superior courts) tend to be law-trained, and often handle caseloads similar to those of the district court judges.

A few magistrates are aware of or interact with tribal courts and councils, but the majority, even those who are Native or have lived in the area that they serve for several decades, are not aware of much dispute resolution activity by tribal organizations. To some extent, this reflects the lack of such activity until very recently, but in some instances, it seems more indicative of a belief that even if tribal organizations did resolve disputes, this would not properly be the concern of the magistrate. The magistrates who did comment on tribal court interactions often observed the same phenomenon mentioned by the prosecutors: some villages have few or no offenders that come through the courts. A magistrate in the Yukon-Kuskokwim area noted that he could not remember ever having had a case from several villages, all of them with very active councils.

Other magistrates are more willing to establish a dialogue with tribal courts. The Bethel magistrate reports that during a state court telephonic arraignment on a fish and game violation last summer, a man identifying himself as an Akiachak tribal court judge asked to be present during the proceedings. The state court magistrate agreed to meet with the tribal court judge later to discuss ways in which they might cooperate to their mutual benefit. The magistrate in Nenana has referred custody cases and civil disputes to the tribal court where appropriate, and has asked the court to make sentence recommendations in more serious cases. Recently, the new magistrate at Tok met with the First Chief of Mentasta Lake. The Chief reported feeling hopeful that they could develop a good working relationship. The former St. Lawrence Island magistrate, now deceased, worked well with Gambell's tribal council.

The court system also experimented with "conciliation boards," in the middle 1970s. The conciliation boards paid a token sum to board members from the village who had been trained in negotiation techniques, and whose purpose was to resolve minor disputes that were inappropriate for court disposition. The project evaluation found that about half of the boards had had few or no cases; the others had not provided enough benefit to continue the program.²⁰³ The court did not continue to pay members, but both

²⁰³ J. MARQUEZ AND D. SERDAHELY, *supra* note 35, at 4 and 6. Governor Cowper's administration later proposed a variation on these conciliation boards, developing a program for "judgment boards." The Department of Law also proposed a program for villages to use as an alternative method of resolving disputes. However, neither program was adopted, and the present administration has not made any comparable proposals.

Napaskiak and Emmonak were said to have continued using the boards into the late 1980s.²⁰⁴

G. Department of Corrections

Relationships among tribal courts, councils and the Department of Corrections are not structured by Department policies. Probation/parole officers and presentence report writers are the Department employees with the greatest chance of coming into contact with tribal courts or councils. Presentence report writers may receive letters or calls from village councils asking that a particular factor be considered in sentencing. The requests may ask that the offender be returned to the community because he or she served a valuable role there,²⁰⁵ or may ask that the offender be kept out of the area because of previous or present bad behavior.²⁰⁶

Probation/parole officers supervising offenders from smaller villages may turn to the local council or tribal court for assistance in overseeing an offender's probation, supervising community work service or meeting other probation or parole conditions. Often these arrangements are worked out with the state court judge and the attorneys involved in the case at the time of sentencing, with the probation/parole officer being the person required to assure that the sentence actually is carried out. Instances also have been noted of probation/parole officers or law enforcement personnel turning to tribal courts or councils to intervene in probation or parole violations rather than returning the offender to the state court.

H. Alaska Legal Services

Alaska Legal Services Corporation (ALSC) has a history of advocacy for tribal rights in Alaska, frequently litigating in state and federal court on behalf of tribes

²⁰⁴ Emmonak asked the PACT organization in Barrow for training in conciliation techniques in 1991, indicating that neither the need nor the interest had entirely diminished over the preceding fifteen years.

²⁰⁵ For example, apparently there was a case from the Nome area in which the community wanted the offender to return because he possessed important technical skills needed in the village.

²⁰⁶ This would be the equivalent of the traditional sanction of banishment; it has been ordered by judges with varying outcomes. Incarceration, of course, accomplishes the same result for a limited period. However, efforts by judges to respond to community wishes by requiring offenders to stay away from a given area may be impermissibly restrictive unless narrowly tailored. See *Jones v. State*, 727 P.2d 6 (Alaska App. 1986); *Edison v. State*, 709 P.2d 510 (Alaska App. 1985).

seeking formal recognition from the State.²⁰⁷ In the Klukwan artifact case,²⁰⁸ ALSC represented the Chilkat Indian Village in the Chilkat tribal court. In addition, ALSC represents tribes when they intervene in Alaska state court ICWA cases, often arguing for transfer of jurisdiction to tribal courts. In ICWA cases involving Alaska Native children living in other states, ALSC helps by recommending attorneys who practice in the other jurisdiction.

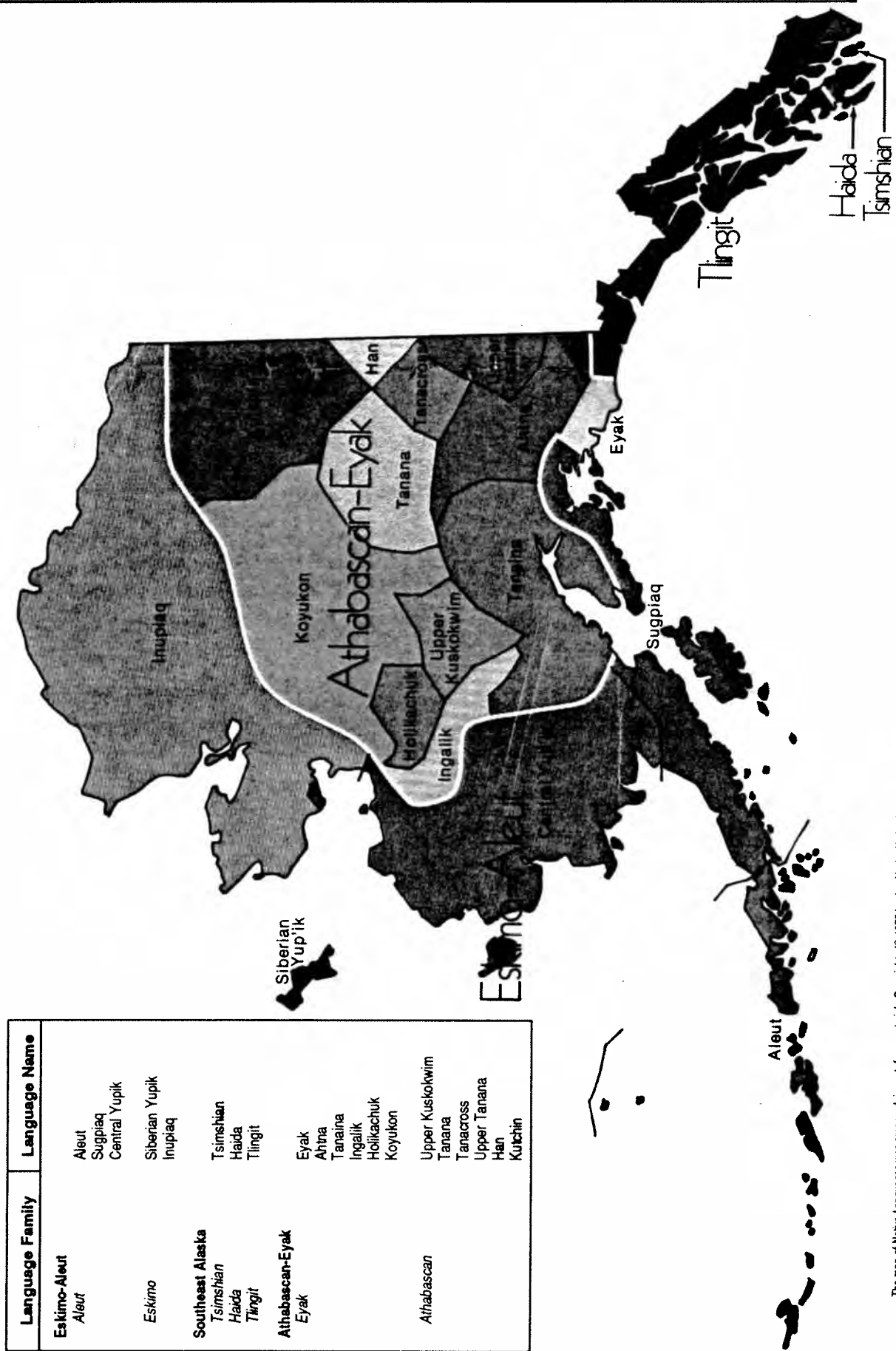
In some cases, ALSC encourages clients to take legal problems to their tribal court for resolution. Typically, cases referred to the tribal court/council involve adoptions, and minor criminal matters that are not, because of resource constraints, addressed by Troopers. ALSC also encourages clients to go to village councils with matters impacting "domestic tranquility" in the villages (for example, complaints involving loose dogs or noise). If a client asks the tribal court to resolve the dispute, ALSC attorneys will represent or advise the client in that forum.²⁰⁹ Also, ALSC clients who are the subject of tribal court orders occasionally ask for advice on matters of compliance.

²⁰⁷ See, e.g., *Venetie v. State of Alaska*, 944 F.2d 548 (9th Cir. 1991); *Village of Gambell v. Lujan*, 869 F.2d 1273 (9th Cir. 1989); *Didrickson v. U.S. Dept. of Interior*, 796 F.Supp. 1281 (D. Alaska 1991). Also, ALSC represented the grandmother in the state court custody case, discussed on page 146-47 of the Council's previous report, involving a child whose mother had died. In that case, the Minto Tribal Court and the Nenana Council together mediated a settlement custody agreement that later was approved by a state court judge. The stipulated tribal court order was attached as an exhibit to the state court order. RESOLVING DISPUTES LOCALLY, *supra* note 11, at 146.

²⁰⁸ *Chilkat Indian Village v. Johnson*, 870 F.2d 1469 (9th Cir. 1989).

²⁰⁹ For example, an ALSC attorney in Bethel recently represented a client in a proceeding in the Akiachak Tribal Court.

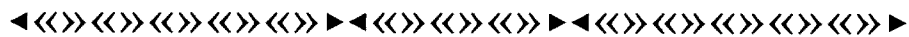
Figure 4
Geographic Distribution of Alaska Native Languages
 Alaska Judicial Council 1993



The map of Native Languages was prepared, in part, from materials Copyrighted 1975 by the Alaska Native Language Center, University of Alaska, Fairbanks, Alaska. Alaska Native People and Languages 1982 - Michael Krause

Part IV:

Conclusions and Recommendations



A. Conclusions

The conclusions of this report may be stated fairly briefly. A relatively large and increasing number of rural, mostly Native, Alaskan communities attempt to deal with local justice problems locally. These communities use, for the most part, tribal councils and courts to address childrens' and family disputes (especially Indian Child Welfare Act matters), relatively minor criminal disputes, alcohol control, and a variety of other matters. The communities with active tribal councils or courts appear to need state justice resources (Troopers, courts, etc.) less than comparable rural communities without local justice organizations.

Despite fundamental differences on the issue of Native sovereignty, tribal dispute resolution organizations and state justice system personnel have shown an ability to cooperate to further the needs of rural Alaskans on a case-by-case basis. This cooperation is informal and varies depending on individual personalities and other factors, but many of the relationships have withstood the test of over a decade of work. Further, the cooperative efforts, when they occur, can improve the lives of rural Alaskans, while at the same time saving the State money -- a not insignificant accomplishment given Alaska's current economic climate.

B. Recommendations

The general recommendations of the Alaska Judicial Council based on this report are straightforward:

1. Alaska's rural communities, Natives, and state and federal agencies can and must cooperate to bring rural residents a basic access to justice. Without conceding firmly held positions on Native sovereignty²¹⁰ all groups must work together to support local tribal dispute resolution organizations' efforts to help rural residents voluntarily resolve disputes locally. This cooperation is especially imperative given the fiscal restraints that render the State unable to provide a full range of legal services to rural residents.
2. The first, and most important, step in this cooperative process is for both state agencies and local justice groups to establish communications and personal contact with each other. It is hoped that the directory entries in this report can be of assistance in establishing this initial contact.
3. All state agencies should evaluate their policies and procedures for ways in which cooperation with tribal courts and councils could be further encouraged, and to identify existing policies or procedures that inadvertently bar increased interaction. The agencies should then set out timetables for changing policies to increase interactions with tribal courts and councils.

The Judicial Council's remaining recommendations are directed to specific individuals, groups and agencies. They are grouped by the entity to which they are directed. Although this organization leads to some redundancy, it should make the recommendations easier to implement.

²¹⁰ The legal issues regarding various aspects of the Native sovereignty issue we set out in the Council's prior rural justice report. See *RESOLVING DISPUTES LOCALLY*, *supra* note 11. This discussion is updated in Appendix B of this report.

The Council has avoided trying to anticipate what the final resolution of these complex and controversial issues will be. The Council has, however, consistently reminded both tribal advocates and state agencies that since local tribal councils and courts almost always act with the consent of those who appear before them (in a sense, the organizations practically act like mediation or arbitration bodies), an opposition to Native sovereignty and tribal jurisdiction need not mean an opposition to tribal courts and councils.

1. The Governor's Office

Governor Hickel, as the leader of the executive branch in Alaska, must take the lead in directing state agencies to work with tribal councils and courts to meet the legitimate needs of rural residents. While the Governor has encountered opposition from Native groups as to his views on Native sovereignty, he has consistently supported what he believes are the legitimate aspirations of Native Alaskans. The Council believes its recommendation to the Governor falls into that category.

- a. Governor Walter Hickel should issue an executive proclamation by the end of June 1993 to the Departments of Law, Public Safety, Corrections and Administration and other state agencies mandating that executive agencies cooperate fully with the legitimate aspirations of tribal courts, councils, and other rural justice organizations. The executive order should cite the need to bring justice services to rural Alaskans, the inability of the State to pay for those services, and the legitimate desire of rural Alaskans to resolve disputes locally.

2. Alaska State Legislature

The State Legislature shares with the Governor the responsibility of ensuring that legitimate justice needs are met within the State's fiscal constraints. The Judicial Council again emphasizes that because parties' participation in tribal council and court proceedings is overwhelmingly voluntary, there is no reason that these recommendations could not be implemented independent of resolution of the sovereignty issue.

- a. The Legislature should issue a joint resolution encouraging the development of local dispute resolution projects and urging state agencies and rural residents to cooperate in assisting rural justice organizations, including tribal councils and courts. The resolution should cite the need to bring justice services to rural Alaskans, the inability of the State to pay for those services, and the legitimate desire of rural Alaskans to resolve disputes locally.

- b. The Legislature, in its operational and budgetary overview of state agencies, should encourage agency cooperation with rural justice organizations, including tribal councils and courts.
- c. Bills HB 93 and CSSB15, now before the Legislature, would establish the VPSO program as a statutory commitment of the State, still under the purview of the Department of Public Safety. The Legislature should pass these bills. The Legislature also should ensure that the VPSO program is adequately funded; increasing the salaries of VPSOs will decrease turnover and increase the overall quality of VPSO applicants.
- d. While the State does not have the resources to fully fund rural justice in Alaska, the Legislature must take into account rural needs when making funding decisions. Further, funding for important continuing projects (such as the VPSO program) and special projects (such as this Judicial Council report and directory) should be provided.

3. Alaska Court System

The judicial branch of government plays a key role with rural justice issues in Alaska. While court case law is in opposition to positions taken by many tribal advocates, the court system has attempted to further justice in rural Alaska in many ways, including inviting tribal judges to the 1992 judicial conference session on tribal courts. These cooperative efforts should be continued and expanded. The Judicial Council makes the following recommendations.

- a. The Alaska Supreme Court should issue a Supreme Court Order mandating full cooperation from judges and other court system personnel towards the legitimate aspirations of tribal courts and councils, and other rural justice organizations. The order should cite the need to bring justice services to rural Alaskans, the inability of the State to pay for those services, and the legitimate desire of rural Alaskans to resolve disputes locally. The order should be worded broadly to include organizations such as PACT in Barrow, as well as clearly including tribal courts and councils.

The order might specify types of cases or offenders or parties for whom local cooperation is especially appropriate.

- b. State court judges and magistrates should work with tribal courts and councils in appropriate civil and criminal cases. Currently, some state court judges and magistrates interact routinely with tribal courts and councils, while some interact only sporadically (as cases arise). In criminal cases, state court judges and magistrates can ask tribal courts and councils to supervise offenders' community work service, supervise probation, testify at sentencings, and give advice on appropriate action to take in probation or parole revocations. State courts can discuss with tribal courts and councils appropriate dispositions of cases, decisions about which aspects of the case may be handled best in which forum, and the extent to which each court or council can be involved in long-term oversight of the case or supervision of an offender.
- c. Reciprocal invitations between state court judges and tribal court judges and council members to attend conferences should continue, because they further communication and understanding. In particular the Alaska Supreme Court should invite tribal court judges to attend its June 1993 judges' conference in Juneau.
- d. In any case which might be appropriate for alternative dispute resolution, and in which a local organization such as a tribal court or council exists, judges should encourage the parties to consider referring the case to the tribal court or council (or other comparable organization such as a conciliation organization). Appropriate cases could include landlord/tenant problems, business or contract disputes, and small claims cases, child custody and visitation issues, divorce and dissolution discussions, and other domestic relations matters. In addition, to the extent possible, the state courts should authorize the appointment of tribal members/judges as marriage commissioners, guardians ad litem or other roles in which court responsibilities routinely are shared with non-state-judicial volunteers or personnel.

- e. The court system should participate in the forum project sponsored by the Conference of Chief Justices' Committee on Jurisdiction in Indian Country. This program has for the past several years encouraged states to work closely with tribal courts and councils. The forum allows a small number of state and tribal court judges (three to four from each group) to meet, identify issues that need resolution within that state, conduct public hearings to obtain information and support for the work of the forum and finally, make specific recommendations for resolving issues that have been identified. Alaska is represented on the national planning body for these forums by retired judge Thomas Schulz of Ketchikan, who is working to encourage use of the forum structure in Alaska.

- f. Materials currently being prepared for magistrate correspondence courses should include information about possible interactions with tribal courts and councils. Magistrates often are in an excellent position to work with local organizations in small communities. The Judicial Council sends copies of its reports on rural alternative dispute resolution organizations to all magistrates for their reference.

- g. Judges and court personnel should encourage the scheduling of hearings, trials, and case dispositions (especially sentencings) in local communities, within the court system's fiscal constraints. Holding proceedings in local communities provides an opportunity for tribal courts and councils to interact directly with state court personnel and judges, increasing communication and understanding among all parties.

4. Department of Law

State and local prosecutors, and state and local attorneys representing government agencies, may find numerous opportunities to interact with tribal courts and councils. The state Attorney General's office routinely gives notice of ICWA cases to tribal councils, and assistant attorneys general work with members of tribal courts and councils to resolve ICWA as well as other family and child matters. Prosecutors tend

to work less directly with tribal courts and councils, but many are aware of the ways in which closer cooperation can facilitate the delivery of justice services in rural areas.

- a. Prosecutors can consider deferring prosecution of appropriate offenses, with the concurrence of people in a village, with conditions that the offender perform work for the village council and comply with other conditions. In addition, prosecutors can support tribal courts and councils by taking into account the tribal organizations' expressed desires in making the decision whether to prosecute an offender who may have a history of prior offenses which the local organizations have been unable to manage.
- b. In making bail and sentencing recommendations, prosecutors should continue to take community standards and expressed concerns and wishes into account. In particular, prosecutors should contact an offender's local tribal council or court for sentencing suggestions. For cases in which other considerations require a disposition not desired or expected by the community, prosecutors should provide an explanation of the decision to local residents.
- c. Assistant Attorneys General who handle ICWA cases should continue to involve tribal courts and councils in those cases. Tribal courts and councils can provide information about alternative placements and can monitor families' progress. Although the State is not required to give notice to tribes in voluntary termination of parental rights under ICWA, Assistant AGs should consider notifying tribes in those cases in which parental privacy is not at issue.
- d. Assistant attorneys general should be aware of opportunities to resolve disputes in tribal courts or councils, or other organizations. Attorneys can encourage the parties in domestic relations cases or any kind of case, when appropriate, to use the services of tribal courts and councils to resolve disputes. The attorneys also can work directly with the tribal courts and councils.

5. Department of Public Safety and Local Police Departments

- a. Local police departments may interact with tribal courts and councils if the community in which the offense occurs has a tribal court or council, or if the person being dealt with by the local police department comes from a community with a tribal court or council. Many offenders or persons contacted by urban police departments reside in rural communities and are in the urban location only temporarily. In these situations, the urban police department should determine whether the tribal court or council can provide resources for supervision or resolution of a dispute that are unavailable in the urban location.
- b. The VPSO program has proven to be an effective method of strengthening law enforcement and dispute resolution in local areas. For many tribal courts and councils, the VPSO is the most important source of case referrals and the key to enforcement of tribal orders. Despite high turnover, low funding and periodically unmanageable demands on the VPSOs, most people involved with the program support it strongly and encourage its continued use.
- c. The Judicial Council supports the Department of Public Safety in its efforts to create a career ladder for VPSOs. Providing the possibility of upward mobility for VPSOs will decrease VPSO turnover and increase the overall quality of VPSO applicants.

1) Training: The Department of Public Safety should broaden training provided to VPSOs, including training in methods of dispute resolution and discussion of the roles of tribal courts and councils and state courts, as well as on-the-spot dispute resolution by the VPSO.

2) Work Group: The Department should convene local work groups made up of representatives from the regional non-profit corporations, village councils, oversight Troopers, and others as appropriate to resolve situations in which conflicts among the expectations from each organization of the VPSO are perceived to be occurring.

3) Consistent State-wide policies: The Department of Public Safety should adopt state-wide policies to clarify and make consistent the role of VPSOs in local communities.

- d. In villages which do not have VPSOs, Troopers should make contact with local councils or courts and work directly with the local organizations. For example, Troopers could in their discretion refer probation or parole violations to the tribal court or council, working in the context of state and local laws and Department policies. For example, Troopers could refer a probation or parole violation (especially if the violation is a "technical" violation, rather than being a new offense) to a tribal court or council if it seems that the offender would respond to local action.
- e. If the Trooper has a choice between charging an offense under state law or local ordinance, the officer should be encouraged to charge the offense as a local violation. This strengthens the credibility of the local organization, encourages its work and reduces the burdens on the state agencies responsible for prosecution, adjudication and corrections. In addition, a local response may be more suited to the offender's, victim's and community's needs.
- f. Although most situations in which Department of Public Safety officers become involved may warrant criminal charges, some do not, and others may involve non-criminal matters that need attention. The non-criminal aspects may well be appropriate for dispute resolution action by the tribal court or council, whether acting alone or in concert with the state courts or other state agencies. Department of Public Safety officers should be encouraged to refer appropriate domestic and civil matters to tribal courts and councils.
- g. In villages which do have VPSOs, oversight Troopers should encourage and support the VPSO to refer disputes to tribal courts and councils, to charge under local ordinances where appropriate,

and to refer non-criminal matters to the local organizations for resolution.

- h. Department of Public Safety personnel should offer training to Troopers and VPSOs about tribal courts and councils. Training could include information about structures used by tribal courts and councils, law applied, typical cases handled, persons to contact, and types of actions taken by tribal courts and councils. Department personnel could be given copies of the Judicial Council's reports on tribal courts and councils, including this report which contains directory entries listing tribal courts and councils. In-house personnel can conduct the training; tribal courts and councils probably would be happy to assist.

6. Department of Corrections

- a. Many offenders from rural communities who are obliged to remain in urban areas during probation or parole are removed from their support systems and more likely to fail. Parole and probation officers should initiate contacts with local dispute resolution organizations that may be able to supervise parole and probation conditions. Local organizations also can suggest means of monitoring the offender's actions, and followup if the offender violates conditions of probation or parole. Local organizations have taken responsibility for every aspect of supervision from developing the conditions of supervision, to setting timetables, enforcing compliance, monitoring successful completion or violations, and reporting back to a probation/parole officer or other designated representative of the criminal justice system, as needed.
- b. The Department of Corrections should encourage probation and parole officers to use local councils or courts to supervise rural offenders' probation and parole, and should make available any training necessary for the members of the tribal organizations to do so.

- c. To the greatest extent possible, presentence report writers should encourage local dispute resolution organizations such as tribal courts and councils to participate in making sentence recommendations. Although such participation may sometimes be inappropriate, in most instances all parties will benefit. Presentence report writers should explore the following matters:

1) *Supervision:* Is supervision of release conditions, or of some aspect such as community work service possible and appropriate for the offender and community? What stipulations might be necessary or helpful (such as hours, particular persons to be involved, type of work)? How long should supervision continue? What community resources are available for supervision?

2) *Community Condemnation:* What are the community's feelings about the particular offender and offense?

3) *Prior Record of Behavior:* It will help the presentence reporter to know whether the offender has a record of problems, or whether the present behavior is isolated. Has the council or tribal court met with this offender before? How frequently, and for what reasons?

4) *Context:* Is there information about the victim, the community, the offender's family, or other matters that would be useful and relevant to consider at the time of sentencing?

5) *Appropriate Conditions of Sentence/Release:* What conditions respond most aptly to the offender's background? Are substance abuse, violent behavior, education, or need for work skills considerations in designing the sentence? What resources are available in the offender's community to meet these conditions? What creative uses could be made of technology, alternative punishments, or local resources to tailor the conditions to the needs of the specific offender?

7. Division of Family & Youth Services

- a. State social workers should work closely with tribal councils and courts whenever possible, as they now do in Dillingham and

Sitka, calling upon local resources to assist in resolving family disputes. Clearly, situations occur in which the presence of a neutral person or organization from outside the problem or community can more objectively and beneficially resolve the dispute or assist the parties. However, the experience in numerous communities throughout the State has shown that local tribal councils and courts often have intervened effectively to repair and preserve local relationships, or resolve issues. Ways in which local tribal organizations have been involved have included:

- 1) *Finding foster care;*
- 2) *Handling traditional adoptions;*
- 3) *Counseling parents about appropriate parenting skills and needed changes in living situations, and providing support for families;*
- 4) *Supporting state agency interventions and investigations;*
- 5) *Supporting foster or adoptive families.*

- b. The Judicial Council reiterates its recommendation, made in its earlier report evaluating the Minto and Sitka tribal courts and the PACT organization in Barrow, that "the Department of Health and Social Services consider beginning discussions on the issues that were reserved for subsequent negotiation in the 1989 Indian Child Welfare Act State-Tribal Agreement. Those issues were tribal courts, jurisdiction, and state funding for social services and for children placed in foster homes by a tribe. Included in negotiations on state funding of social services should be discussion of a tribal guardian ad litem program modeled after the State's."

8. Public Defender Agency & Office of Public Advocacy

- a. Assistant Public Defenders should encourage defendants and tribal courts and councils to devise community work service

programs, rehabilitation programs, and other forms of supervision or reporting that meet the needs of the court in imposing bail or sentence conditions, and that respond to community concerns (e.g., community condemnation, deterrence, safety of the community).

9. Regional and State Native Organizations

- a. Alaska's regional and state Native organizations can play an important role in assisting local Native communities in addressing local needs through tribal courts. These organizations should actively seek to cooperate with state officials at all levels.

10. Local Communities, Tribal Councils and Tribal Courts

- a. Local communities, as well as state agencies, must pursue cooperation. Rural, especially Native, Alaskans must realize that the actions of state agencies in the criminal justice system are generally not based on either racism or a disregard for rural and Native concerns. Rather, instances of apparent disregard are more often a result of insufficient communication between state personnel and tribal members, and a consequent lack of understanding. Native Alaskans have a responsibility to communicate their cultural standards to people involved in the state justice system. Various means of thinking about and expressing community standards can be used. The 1986 North Slope Borough Elders Conference on traditional law is an excellent example of community expression of cultural standards, especially insofar as community members were able to advise the state court judge on appropriate sentencing for specific offenses. The communication should take place with the goal of making state justice agencies more responsive to Native concerns. Community members should take advantage of other public hearings and forums to express their opinions and concerns about the articulation and use of community standards in resolution of disputes. Examples include letters to newspaper editors, public hearings sponsored by state and local governmental agencies,

requests to Native non-profit corporation boards of directors to consider these issues, and participation in programs such as the court system's "Meet the Judges."

- b. Some tribal courts and councils make it their practice to make sentencing recommendations to the state courts. This practice is a helpful one that other tribal courts and councils should adopt. Also, tribal courts and councils should provide the state courts with information about the defendant's criminal history in the village. This information helps the state court determine an appropriate sentence.
- c. Tribal courts and councils also should share information about their work with attorneys, through the Alaska Bar Association's Native Law Section, through Continuing Legal Education programs, through the newly-organized Native Bar Association and through other appropriate means.
- d. Tribal courts and councils should ratify the Indian Child Welfare Act State-Tribal Agreement. This ratification would promote state and local cooperation to assist Native children. It would not stop Native groups from seeking resolution of jurisdiction and funding disputes concerning tribal courts and social services.

11. Bureau of Indian Affairs

- a. The BIA and other agencies should emphasize funding of Alaska Native dispute resolution organizations, including development of tribal courts and councils.

12. Alaska Natives Commission

- a. The Alaska Natives Commission should adopt a resolution supporting the development and use of culturally appropriate local dispute resolution whenever appropriate. The resolution should support using local dispute resolution organizations to resolve a wide range of problems, including (as appropriate for an individual community or situation) family matters, civil

matters such as contract disputes or landlord-tenant relationships, appropriate situations involving juveniles, including drug and alcohol abuse, and violations of local ordinances.

- b. The Alaska Natives Commission should encourage the BIA and other federal agencies to fund tribal courts in Alaska.
- c. The Commission should encourage state agencies and local communities to adopt the recommendations made in this report.

13. Alaska Bar Association/Attorneys

- a. Attorneys should be aware of opportunities to resolve the disputes in tribal courts or councils, and should encourage the parties to consider these options. Attorneys also can work directly with the tribal courts and councils.
- b. Criminal defense attorneys should work with tribal councils and courts when appropriate in representing their clients. These efforts should include working through tribal courts and councils to devise community work service programs, rehabilitation programs, and other forms of supervision or reporting that meet the needs of the court in imposing bail or sentence conditions, and that respond to community concerns (e.g., community condemnation, deterrence, safety of the community).
- c. The Alaska Bar Association should include in any CLE training materials for training prosecutors, defense attorneys, and other attorneys working in rural areas information about tribal courts and councils, and ways of working with tribal courts and councils to resolve disputes.
- d. The Native Law section and the Alaska Bar Association can develop Continuing Legal Education courses related to tribal court and council activities.

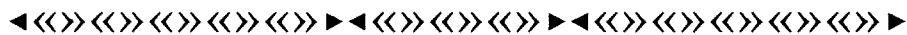
- e. The *Bar Rag* should promote awareness of tribal courts and councils' activities, perhaps through a regular column or through special feature articles.
- f. The Alternative Dispute Resolution section of the Bar Association should educate attorneys about alternative dispute resolution in general and about tribal courts and councils in particular as an alternative for resolving disputes that involve village residents.
- g. The Alaska Bar Association, through the Native Law Section, should consider designating a central repository or library for materials related to tribal court and council activities and laws. The library would contain copies of tribal court rules, local ordinances creating tribal courts, handbooks, writings and case law of Alaska and national cases and articles about Indian law, copies of materials about traditional law and law ways, and other relevant materials. (Alternatively, the repository might be managed by Alaska Intertribal Court, RurAL CAP, or by one of the regional profit or non-profit corporations.)

14. Boroughs and Municipalities

- a. The Council encourages local governments, both boroughs and municipalities, to adopt resolutions supporting the use of local methods of dispute resolution when appropriate.
- b. Local communities should consider forming task forces to develop programs for alternative ways of sentencing specific offenses. Sitka formed such a task force in 1992. The group, including the police chief, the tribal court judge, the state court judge, the probation officer, other agency people, and several concerned citizens was coordinated by the Sitka Alliance for Health. For its first project, the group developed a new procedure for handling Minor Consuming [Alcohol] offenses that used existing laws, staff and funds but changed the actions taken by police, courts and supervisory organizations.

Appendix A

Alphabetical List of Organizations that Resolve Disputes in Alaska



Federal Courts

United States Court of Appeals, Ninth Circuit
Judge Andrew Kleinfeld
Federal Bldg. U.S. Courthouse
101 12th Ave. Box 28
Fairbanks, AK 99701-6237
(907) 456-0565

United States District Court
District of Alaska
222 W. 7th Ave. #54
Anchorage, AK 99513-7545
(907) 271-5621

State Courts

Alaska Supreme Court
and Court of Appeals
303 K St.
Anchorage, AK 99501-2084
(907) 264-0629
FAX (907) 276-5808

Other Alaska Courts
(see page A-11 for specific offices)

Other State Dispute Resolution

Duncan Fowler, Ombudsman
Box 113000
Juneau, AK 99811-3000
(907) 465-4970

Dean Gottehrer,
Regional Director
Offices of the Ombudsman
333 W. 4th Ave., Suite 305
Anchorage, AK 99501
(907) 277-8848

Michael P. Hostina,
Deputy Ombudsman
Box 74358
Fairbanks, AK 99707
(907) 452-4001

Paula Haley, Executive Director
Alaska Human Rights Commission
800 A Street, Suite 202
Anchorage, AK 99501-3669
(907) 276-7474
(907) 278-8588 Fax

Regional Organizations (alphabetical by organization)

Alaska Eskimo Whaling Commission

P.O. Box 570
Barrow, AK 99723
Phone: (907) 852-2392

Aleutian/Pribilof Islands Association

401 E. Fireweed Lane
Anchorage, Alaska 99503-2111
Phone: (907) 276-2700
Contact: Monika Renke, MSW (Family Services)
Region: Aleutian/Pribilof Islands

Arctic Slope Native Association

P.O. Box 1232
Barrow, AK 99723
Phone: (907) 852-2762
Fax: (907) 852-2763
Contact: Roberta Quintevall
Region: North Slope

Bristol Bay Native Association

Box 310
Dillingham, AK 99576
Phone: (907) 842-5257
Fax: (907) 842-5932
Contact: Bruce Baltar (general counsel)
Region: Bristol Bay

Central Council Tlingit and Haida Indian Tribes of Alaska

Andrew P. Hope Building
320 West Willoughby Ave., Suite 300
Juneau, AK 99801-9983
Phone: (907) 586-1432
Fax: (907) 586-8970
Contact: Richard Stitt
Region: Southeast

Chugachmiut

3300 C Street
Anchorage, AK 99503-2775
Phone: (907) 562-4155
Fax: (907) 563-2891
Contact: John Purcell
Region: Prince William Sound/Gulf of Alaska

Cook Inlet Tribal Council

670 E. Fireweed Lane, Ste. 200
Anchorage, AK 99503
Phone: (907) 272-7529
Contact: Esther Combs (Executive Director)
Region: Cook Inlet

Copper River Native Association

1689 C Street, Suite 211
Anchorage, AK 99501
Phone: (907) 272-2762
Fax: (907) 274-2329
Contact: Paul Tony (General Counsel)
or
Mile 104 Richardson Highway, Drawer H
Copper Center, AK 99573
Phone: (907) 822-5241
Region: Copper River

Inupiat Community of the Arctic Slope

Box 69
Barrow, AK 99723
Phone: (907) 852-0250
Contact: Rex Okakok
Region: North Slope

Kawerak, Inc. Tribal Affairs

Box 948
Nome, AK 99762
Phone: (907) 443-5231
Fax: (907) 443-3708
Contact: Mary Miller (Director, Tribal Affairs)
Region: Bering Straits

Kenaitze Indian Tribe

P.O. Box 988
Kenai, AK 99611
Phone: (907) 263-3633
Contact: Rita Smagge (Director)
Region: Cook Inlet

Kodiak Area Native Association

402 Center Avenue
Kodiak, AK 99615
Phone: (907) 486-5725
Contact: Margie Derenoff (Tribal Operations)
Region: Kodiak Island

Kodiak Tribal Council

P.O. Box 1974
Kodiak, AK 99615
Phone: (907) 486-4449
Fax: (907) 486-3361
Contact: Margaret Roberts (President)
Region: Kodiak Island

Tanana Chiefs Conference, Inc.

122 First Ave.
Fairbanks, AK 99701-4897
Phone: (907) 452-8251
Fax: (907) 452-8936
Contact: William Walters (Tribal Court Facilitator)
Region: Interior

Manillaq Association

Box 256
Kotzebue, AK 99572
Phone: (907) 442-3311
Contact: Bill Bailey (Tribal Operations)
Region: Kotzebue Sound

Local Organizations (alphabetical by location)

Akhiok Tribal Council

P.O. Box 5072
Akhiok, AK 99615-5072
Phone: (907) 836-2229
Fax: (907) 836-2209
Contact: Nick Peterson (President)
Region: Kodiak Island

Aleknagik Village Council

P.O. Box 115
Aleknagik, AK 99555
Phone: (907) 842-2229
Fax: (907) 842-2841
Contact: Miriam Olsen (President)
Region: Bristol Bay

Akiachak IRA Council

P.O. Box 70
Akiachak, AK 99551
Phone: (907) 825-4626
Contact: Willie Kasayulie (President)
Phillip Peter (Judge)
Region: Yukon Kuskokwim Delta

Ambler Traditional Council

P.O. Box 47
Ambler, AK 99786
Phone: (907) 445-2131
Contact: Arthur Douglas (President)
Region: Kotzebue Sound

Aklak Native Community

P.O. Box 52165
Akiak, AK 99552
Phone: (907) 765-7112
Contact: Owen Ivan (President)
Region: Yukon Kuskokwim Delta

Anchorage Municipal Ombudsman

Box 196650
Anchorage, Alaska 99519-6650
Phone: (907) 343-4461
Fax: (907) 343-4464
Contact: Rosa Garner, Ombudsman
Region: Cook Inlet

Akutan Village Council

P.O. Box 89
Akutan, AK 99553
Phone: (907) 698-2228
Contact: Jacob Stepetin (President)
Region: Aleutian/Pribilof Islands

Anchorage Youth Court

Box 102735
Anchorage, AK 99510
Phone: (907) 274-5986
Contact: Sharon Leon (Director)
Region: Cook Inlet

Alatna Traditional Council

General Delivery
Alatna, AK 99720
Contact: Gerald Sam (Chief)
Phone: (907) 982-2241 (msg)
Region: Interior

Better Business Bureau of Alaska, Inc.

2805 Bering St.
Anchorage, AK 99503
Phone: (907) 562-2824
Contact: Brenda Cox
Region: Cook Inlet

Algaaciq Traditional Council

(see Saint Mary's)

Equal Rights Commission

Municipality of Anchorage
620 E. 10th Avenue
Anchorage, AK 99501
Phone: (907) 343-4342
Contact: Janel Wright
Region: Cook Inlet

Allakaket Traditional Council

General Delivery
Allakaket, AK 99720
Contact: Gilbert Vent (1st Chief)
Phone: (907) 968-2241
Fax: (907) 968-2251
Region: Interior

Anvik Traditional Council

General Delivery
Anvik, AK 99558
Contact: Carl Jerue, Jr. (Chief)
Phone: (907) 663-6328
Region: Interior

Arctic Village Traditional Council

Box 22050
 Arctic Village, AK 99722
Contact: Trimble Gilbert (First Chief)
Phone: (907) 587-5129 Work
 (907) 587-5320 Home
Region: Interior

Atmautluak Traditional Council

General Delivery
 Atmautluak, AK 99559
Phone: (907) 553-5610
Contact: Moses Pavilla, Sr. (President)
Region: Yukon Kuskokwim Delta

Native Village of Barrow

P.O. Box 1139
 Barrow, AK 99723
Contact: Arnold Brower, Jr.
Region: North Slope

PACT

P.O. Box 749
 Barrow, AK 99723
Phone: (907) 852-7228
Contact: Deborah Hildebrand
Region: North Slope

Beaver Traditional Council

P.O. Box 24029
 Beaver, AK 99724
Contact: Arlene Pitka (Chief)
Phone: (907) 628-6126
Fax: (907) 628-6812
Region: Interior

Better Business Bureau of Alaska, Inc.

(see Anchorage)

Birch Creek

(see Ft. Yukon)

Brevig Mission Traditional Council

General Delivery
 Brevig Mission, AK 99785
Phone: (907) 642-4301
Fax: (907) 642-4311
Contact: Annie Olanna Conger (President)
Region: Bering Straits

Buckland IRA Council

General Delivery
 Buckland, AK 99727
Phone: (907) 494-2121
Contact: Percy Ballot (President)
Region: Kotzebue Sound

Canyon Village

(see Ft. Yukon)

Chalkyitsik Traditional Council

General Delivery
 Chalkyitsik, AK 99788
Phone: (907) 848-8893
Contact: James Nathaniel, Sr. (Chief)
Region: Interior

Chevak Traditional Council

P.O. Box 140
 Chevak, AK 99563
Phone: (907) 858-7424
Fax: (907) 858-7013
Contact: Moses J. Tulim (Tribal Administrator)
Region: Yukon Kuskokwim Delta

Chickaloon Traditional Court

P.O. Box 1105
 Chickaloon, AK 99674
No Phone
Contact: Richard Martin (Judge)
Region: Cook Inlet

Chilkat Indian Village Tribal Court

(see Haines)

Chinik Eskimo Community

(see Golovin)

Chistochina

(see Gakona)

Chitina Village Council

P.O. Box 31
 Chitina, AK 99566
Phone: (907) 823-2215
Fax: (907) 823-2215
Contact: Judy Salomon (Administrator)
Region: Copper River

Chuathbaluk Traditional Council

P.O. Box CHU
Chuathbaluk, AK 99557
Phone: (907) 467-4313
Fax: (907) 467-4113
Contact: Sinka Sakar, Sr. (President)
Region: Yukon Kuskokwim Delta

Native Village of Eklutna

26339 E. Village Road
Chugiak, AK 99567
Contact: Lee Stephan (CEO)
Region: Cook Inlet

Circle Traditional Council

General Delivery
Circle, AK 99733
Contact: Allen John (Chief)
Phone: (907) 773-8776 (msg)
Region: Interior

Native Village of Kluti Kaah

P.O. Box 68
Copper Center, AK 99573
Phone: (907) 822-5541
Contact: Shirley Miller (Project Director)
Region: Copper River

Deering IRA Council

General Delivery
Deering, AK 99736
Phone: (907) 363-2148
Contact: Emerson Moto (President)
Region: Kotzebue Sound

Dillingham Village Council

P.O. Box 216
Dillingham, AK 99576
Phone: (907) 842-2384
Fax: (907) 842-2784
Contact: H. Sally Smith (President)
Region: Bristol Bay

Native Village of Diomedea

Box 7099
Diomedea, AK 99762
Phone: (907) 686-2175
Fax: (907) 686-3061
Contact: Orville Ahkinga (President)
Region: Bering Straits

Dot Lake Traditional Council

P.O. Box 2272
Dot Lake, AK 99737
Contact: William Miller (President)
Phone: (907) 882-5137
Region: Interior

Eagle Traditional Council

P.O. Box 19
Eagle, AK 99738
Contact: Matthew Malcolm (First Chief)
Phone: (907) 547-2238
Region: Interior

Eklutna

(see Chugiak)

Ekwok Village Council

P.O. Box 70
Ekwok, AK 99580
Phone: (907) 464-3311
Fax: (907) 464-3328
Contact: Luki Akelkok, Sr. (President)
Region: Bristol Bay

Emmonak Traditional Council

P.O. Box 126
Emmonak, AK 99581
Phone: (907) 949-1720
Contact: Leonard Augustine (Tribal Administrator)
Region: Yukon Kuskokwim Delta

English Bay

(see Nanwalek)

Evansville Traditional Council

General Delivery
Evansville, AK 99726
Contact: Rhoda Musser (Chief)
Phone: (907) 692-5467
Region: Interior

Healy Lake Traditional Council

P.O. Box 60300
Fairbanks, AK 99737
Contact: Fred Kirstealter (President)
Phone: (907) 895-4444 Dial 16 after beeps
or Radio Fairbanks 452-1166
ask for 0259
Region: Interior

Wiseman Traditional Council

1455 Skyline
Fairbanks, AK 99701
Contact: Vernon F. Miller (Chief)
Phone: (907) 457-5602
Region: Interior

Chinik Eskimo Community

General Delivery
Golovin, AK 99762
Phone: (907) 443-3251
Fax: (907) 779-3261
Region: Bering Straits

Birch Creek Traditional Council

Birch Creek via Fort Yukon
Fort Yukon, AK 99740
Contact: Randall Banlam (First Chief)
Phone: (907) 221-2212
Fax: (907) 221-2213
Region: Interior

Traditional Council of Mumtraq

P.O. Box 03
Goodnews Bay, AK 99589
Phone: (907) 967-8929
Fax: (907) 967-8929
Contact: James M. Smith (President)
Region: Yukon Kuskokwim Delta

Canyon Village Traditional Council

P.O. Box 13
Fort Yukon, AK 99740
Contact: Stanley Jones (President)
Phone: (907) 662-2502
Region: Interior

Grayling IRA Council

General Delivery
Grayling, AK 99590
Contact: Henry Deacon (Chief)
Phone: (907) 453-5133
Fax: (907) 453-5146
Region: Interior

Fort Yukon IRA Council

P.O. Box 126
Fort Yukon, AK 99740
Contact: Clarence Alexander (Chief)
Phone: (907) 662-2561
Region: Interior

Chilkat Indian Village Tribal Court (Klukwan)

P.O. Box 929
Haines, AK 99867
Phone: (907) 767-5517
Contact: Joe Hotch
Region: Southeast

Chistochina Village Council

P.O. Box 241
Gakona, AK 99586
Phone: (907) 822-3503
Contact: Evelyn Beeter
Region: Copper River

Healy Lake Traditional Council

(see Fairbanks)

Louden Traditional Council

P.O. Box 244
Galena, AK 99741
Contact: Stan Huntington (Acting Chief)
Phone: (907) 656-1711
Fax: (907) 656-1716
Region: Interior

Hooper Bay Traditional Council

P.O. Box 2193
Hooper Bay, AK 99604
Phone: (907) 758-4915
Contact: Joseph Bill (Tribal Administrator)
Region: Yukon Kuskokwim Delta

Native Village of Gambell

Box 99
Gambell, AK 99742
Phone: (907) 985-5346
Fax: (907) 985-5014
Contact: Gerrard Koonooka (President)
Region: Bering Straits

Holy Cross Traditional Council

P.O. Box 203
Holy Cross, AK 99602
Contact: James Walker
Phone: (907) 476-7139
Fax: (907) 476-7110
Region: Interior

Hughes Traditional Council

Box 45029
Hughes, AK 99745
Contact: Jack Ambrose (Chief)
Phone: (907) 889-2234
Fax: (907) 889-2235
Region: Interior

Huslia Traditional Council

P.O. Box 10
Huslia, AK 99746
Phone: (907) 829-2256 (msg)
Contact: Franklin Simon, Sr. (1st Chief)
Region: Interior

Lake Minchumina Traditional Council

P.O. Box 53
Kaktovik, AK 99747
Contact: Robert J. Thompson (President)
Phone: (907) 366-7228/BLM
Region: Interior

Kaltag IRA Council

P.O. Box 9
Kaltag, AK 99748
Contact: Franklin Madros, Sr. (Chief)
Phone: (907) 534-2236
Fax: (907) 534-2236
Region: Interior

Ketchikan Indian Corporation

P.O. Box 5165
Ketchikan, AK 99901
Phone: (907) 225-5158
Contact: Alex Tatum (Director)
Region: Southeast

Kiana Traditional Council

P.O. Box 69
Kiana, AK 99749
Phone: (907) 475-2109
Contact: Vera Atoruk (Administrator)
Region: Kotzebue Sound

King Island Native Community

(see Nome)

Kipnuk Traditional Council

P.O. Box 57
Kipnuk, AK 99614
Phone: (907) 896-5515
Contact: Johnnie Paul (President)
Region: Yukon Kuskokwim Delta

Kivalina IRA Council

P.O. Box 50051
Kivalina, AK 99750
Phone: (907) 645-2153
Contact: David Swan (President)
Region: Kotzebue Sound

Klukwan

(see Chilkat Indian Village Tribal Court, Haines)

Native Village of Kluti Kaah

(see Copper Center)

Kobuk Traditional Council

General Delivery
Kobuk, AK 99751
Contact: Rosa Homer (President)
Region: Kotzebue Sound

Kotlik Traditional Council

P.O. Box 20150
Kotlik, AK 99620
Phone: (907) 899-4326
Contact: Emma Matthais (Tribal Court Liaison)
Region: Yukon Kuskokwim Delta

Kotzebue IRA Council

P.O. Box 296
Kotzebue, AK 99752
Phone: (907) 442-3467
Contact: Pete Schaeffer (Chairman)
Region: Kotzebue Sound

Native Village of Koyuk

Box 30
Koyuk, AK 99753
Phone: (907) 963-3651
Fax: (907) 963-2353
Contact: Roy Otton (President)
Region: Bering Straits

Koyukuk Traditional Council

P.O. Box 49
Koyukuk, AK 99754
Contact: Percy Lolmitz (Chief)
Phone: (907) 927-2220
Region: Interior

Kwethluk IRA Council

P.O. Box 84
Kwethluk, AK 99621
Phone: (907) 757-6514
Contact: Max Angellan (CEO/Tribal Admin.)
Region: Yukon Kuskokwim Delta

Kwigillingok IRA Council

P.O. Box 49
Kwigillingok, AK 99622
Phone: (907) 588-8114
Contact: R.J. Lewis
Fred Phillip (Tribal Administrator)
Region: Yukon Kuskokwim Delta

Lake Minchumina Traditional Council

(see Kaktovik)

Larsen Bay Tribal Council

P.O. Box 35
Larsen Bay, AK 99624
Phone: (907) 847-2207
Fax: (907) 847-2207
Contact: Pam Carlson
Region: Kodiak Island

Louden Traditional Council

(see Galena)

Lower Kalskag Traditional Council

P.O. Box 27
Lower Kalskag, AK 99626
Phone: (907) 471-2307
Contact: George Sam (President)
Region: Yukon Kuskokwim Delta

Manley Traditional Council

P.O. Box 23
Manley, AK 99756
Contact: Elizabeth Woods (President)
Phone: (907) 672-3177
Region: Interior

Manokotak Village Council

P.O. Box 169
Manokotak, AK 99628
Contact: Wassillie Tugatuk, Sr.
Phone: (907) 289-2067
Fax: (907) 289-2035

Mary's Igloo Traditional Council

(see Teller)

McGrath Traditional Council

P.O. Box 134
McGrath, AK 99627
Contact: Donna Fleagle (First Chief)
Phone: (907) 524-3024
Region: Interior

Medfra Traditional Council

(see Nikolai)

Mekoryuk

P.O. Box 66
Mekoryuk, AK 99630
Phone: (907) 827-8828
Contact: Davis Smith
Region: Yukon Kuskokwim Delta

Mentasta Lake Village Traditional Council

P.O. Box 6019
Mentasta, AK 99780
Phone: (907) 291-2319
Contact: Norman Ewan (First Chief)
Region: Copper River

Metlakatla Court of Indian Affairs

P.O. Box 8
Metlakatla, AK 99926
Phone: (907) 886-4021
Fax: (907) 886-7997
Contact: Harris Atkinson (Chief Judge)
Edward Littlefield (Chief Appellate Judge)
Region: Southeast

Minto Tribal Court

P.O. Box 26
Minto, AK 99758
Contact: Luke Titus (Chief)
Phone: (907) 798-7112
Fax: (907) 798-7212
Region: Interior

Mountain Village Traditional Council

P.O. Box 32249
Mountain Village, AK 99632
Phone: (907) 591-2814
Contact: Mike Moses (President)
Region: Yukon Kuskokwim Delta

Traditional Council of Mumtraq

(see Goodnews Bay)

Naknek Native Village Council

P.O. Box 106
Naknek, AK 99633
Phone: (907) 246-4210
Fax: (907) 246-3563
Contact: Norman Anderson
Region: Bristol Bay

Nanwalek Traditional Council (English Bay)

P.O. Box 8065
Nanwalek, AK 99603
Contact: Vincent Kvasnikoff
Region: Prince William Sound/Gulf of Alaska

Napaklak IRA Council

General Delivery
Napaklak, AK 99634
Phone: (907) 589-2227 (message)
Contact: George Billy (President)
Region: Yukon Kuskokwim Delta

Nenana Traditional Council

P.O. Box 356
Nenana, AK 99760
Contact: Mitch Demientoff (Chief)
Phone: (907) 832-5662
Region: Interior

New Stuyahok Village Council

P.O. Box 49
New Stuyahok, AK 99636
Phone: (907) 693-3173
Fax: (907) 693-3176
Contact: Annie B. Chocknok (President)
Region: Bristol Bay

Medfra Traditional Council

General Delivery
Nikolai, AK 99691
Contact: Verdene Anselment (First Chief)
Phone: (907) 243-7387
Region: Interior

Nikolai Edzeno Native Council

General Delivery
Nikolai, AK 99691
Contact: Ignetti Petruska (First Chief)
Phone: (907) 293-2311
Fax: (907) 293-2328
Region: Interior

Ninilchik Traditional Council

P.O. Box 39070
Ninilchik, AK 99639
Phone: (907) 567-3313
Fax: (907) 567-3308
Contact: Marla Kvasnikoff
Region: Cook Inlet

Noatak IRA Council

P.O. Box 89
Noatak, AK 99761
Phone: (907) 485-2173
Contact: Ricky Ashby (President)
Region: Kotzebue Sound

King Island Native Community

Box 992
Nome, AK 99762
Phone: (907) 443-5494
Contact: Marilyn Ireland (Chief)
Region: Bering Straits

Nome Eskimo Community

Box 1090
Nome, AK 99762
Phone: (907) 443-2246
Fax: (907) 443-3539
Contact: Andy Miller, Jr. (President)
Region: Bering Straits

Nondalton Village Council

General Delivery
Nondalton, AK 99640
Phone: (907) 294-2235
Fax: (907) 294-4945
Region: Bristol Bay

Noorvik IRA Council

P.O. Box 71
Noorvik, AK 99763
Phone: (907) 636-2144
Contact: Gordon Newlin (President)
Region: Kotzebue Sound

Northway Tribal Court

c/o Northway Traditional Council
P.O. Box 516
Northway, AK 99764
Phone: (907) 778-2311
Fax: (907) 778-2220
Contact: Lorraine Titus (Judge)
Region: Interior

Nulato Traditional Council

P.O. Box 94
Nulato, AK 99765
Contact: Ivan Sipary (Chief)
Phone: (907) 896-2207
Region: Interior

PACT

(see Barrow)

Point Hope Tribal Court

P.O. Box 91
Pt. Hope, AK 99766
Contact: Ernie Frankson
Region: North Slope

Port Graham Village

P.O. Box 5510
Port Graham, AK 99603
Contact: Eleanor McMullen
Region: Prince William Sound/Gulf of Alaska

Port Heiden Village Council

P.O. Box 49007
Port Heiden, AK 99549
Phone: (907) 837-2218
Contact: Robert (Bobby) Christiansen (President)
Region: Bristol Bay

Rampart Traditional Council

Box 67029
Rampart, AK 99767
Contact: Ken Mayo (Chief)
Phone: (907) 358-3312
Fax: (907) 358-3312
Region: Interior

Ruby Traditional Council

P.O. Box 21
Ruby, AK 99768
Contact: Pat McCarthy (Second Chief)
Region: Interior

Saint George IRA Council

P.O. Box 940
Saint George, AK 99591
Phone: (907) 859-2205
Contact: Gilbert Kashevarof (President)
Region: Aleutian/Pribilof Islands

Algaaciq Traditional Council

P.O. Box 48
Saint Mary's, AK 99658
Phone: (907) 439-2932
Fax: (907) 438-2932
Contact: Louis Paukin (Administrator)
Region: Yukon Kuskokwim Delta

Native Village of St. Michael

General Delivery
St. Michael, AK 99659
Phone: (907) 923-3222
Fax: (907) 923-3142
Contact: Pius Washington (President)
Region: Bering Straits

Tribal Government of Saint Paul

P.O. Box 86
Saint Paul, AK 99660
Phone: (907) 546-2380
Contact: Rena Kudrin (President)
Region: Aleutian/Pribilof Islands

Native Village of Savoonga

Box 129
Savoonga, AK 99769
Phone: (907) 984-6414
Fax: (907) 984-6027
Contact: Kenneth Kingeekuk (President)
Region: Bering Straits

Native Village of Saxman

Route 2, Box 1
Saxman, AK 99901
Contact: Joe Williams (City Mgr)
Phone: (907) 225-4166
Region: Southeast

Scammon Bay Traditional Council

General Delivery
Scammon Bay, AK 99662
Phone: (907) 558-5113
Contact: Aloysius Aguchak, Sr. (President)
Region: Yukon Kuskokwim Delta

Selawik IRA Council

P.O. Box 59
Selawik, AK 99770
Phone: (907) 484-2225
Contact: Allen Ticket (President)
Region: Kotzebue Sound

Seldovia Village Tribe

P.O. Drawer L
Seldovia, AK 99663
Phone: (907) 234-7898
Fax: (907) 234-7637
Contact: Fred Elvsaa
Region: Cook Inlet

Shageluk IRA Council

General Delivery
Shageluk, AK 99665
Contact: Rudy Hamilton, Sr. (Chief)
Phone: (907) 473-8221
Region: Interior

Native Village of Shaktoolik

Box 100
Shaktoolik, AK 99771
Phone: (907) 955-3701
Fax: (907) 955-3151
Contact: Edgar Jackson (President)
Region: Bering Straits

Native Village of Shismaref

P.O. Box 72110
Shishmaref, AK 99772
Contact: Stella Weyiouanna (President)
Phone: (907) 649-3381
Fax: (907) 642-4014
Region: Bering Straits

Shungnak IRA Council

P.O. Box 53
Shungnak, AK
Phone: (907) 437-2163
Contact: MacAuthur Tickett (President)
Region: Kotzebue Sound

Sitka Tribal Court

P.O. Box 904
Sitka, AK 99835
Phone: (907) 747-3207
Fax: (747-4915)
Contact: Bill Brady (judge)
Region: Southeast

Stebbins Community Association

Box 2
Stebbins, AK 99671
Phone: (907) 934-3561
Fax: (907) 934-3560
Contact: Fred Pete (President)
Region: Bering Straits

Stevens IRA Council

General Delivery
Stevens Village, AK 99774
Contact: Randy Mayo (Chief)
Phone: (907) 478-9226
Region: Interior

Takotna Traditional Council

General Delivery
Takotna, AK 99675
Contact: David Miller (First Chief)
Phone: (907) 296-2212
Fax: (907) 296-2212
Region: Interior

Tanacross Tribal Court

P.O. Box 769999
Tanacross, AK 99776
Phone: (907) 883-4130
Contact: Diane Titus (Judge)
Region: Interior

Tanana Tribal Court

Box 93
Tanana, AK 99777
Phone: (907) 366-7170
Fax: (907) 366-7195
Contact: Carla Bonnie (court clerk)
Region: Interior

Tatitlek IRA Council

P.O. Box 171
Tatitlek, AK 99677
Contact: Gary Kompkoff
Region: Prince William Sound/Gulf of Alaska

Telida Traditional Council

General Delivery
Telida, AK 99629
Contact: Steve Eluska (First Chief)
Phone: (907) 843-8115
Region: Interior

Mary's Igloo Traditional Council

Box 572
Teller, AK 99778
No phone
Contact: Dan Topkok (President)
Region: Bering Straits

Native Village of Teller

Box 544
Teller, AK 99778
Phone: (907) 642-3381
Fax: (907) 642-4014
Contact: Chuck Okbaok (President)
Region: Bering Straits

Tetlin IRA Council

P.O. Box 520
Tetlin, AK 99779
Contact: Bentley Mark, Sr. (President)
Phone: (907) 883-2202
Region: Interior

Togiak Traditional Council

P.O. Box 209
Togiak, AK 99678
Phone: (907) 493-5920
Fax: (907) 493-5932
Contact: Stanley Active, Sr. (President)
Region: Bristol Bay

Toksook Bay Traditional Council

Nelson Island
Toksook Bay, AK 99687
Phone: (907) 427-7114
Contact: James Charlie (Exec. Director & CEO)
Pauline Asuluk (Family Service Specialist)
(907) 427-7914
Region: Yukon Kuskokwim Delta

Native Village of Tyonek

P.O. Box 82009
Tyonek, AK 99682-3009
Phone: (907) 583-2201
Fax: (907) 583-2442
Contact: Donald Standifer, Sr.
Region: Cook Inlet

Native Village of Unalakleet

Box 70
Unalakleet, AK 99684
Phone: (907) 624-3013
Fax: (907) 623-3099
Contact: Stanton Katchatag (President)
Region: Bering Straits

Venetie Traditional Council

P.O. Box 119
Venetie, AK 99781
Contact: John Titus (First Chief)
Phone: (907) 649-8229
Fax: (907) 849-8415 (4-5:00)
Region: Interior

Native Village of Wales

Box 549
Wales, AK 99783
Phone: (907) 664-3511
Fax: (907) 664-3541
Contact: Luther Komonaseak (President)
Region: Bering Straits

Native Village of White Mountain

Box 84082
White Mountain, AK 99784
Phone: (907) 636-3651
Fax: (907) 638-3421
Contact: Lincoln Simon (President)
Region: Bering Straits

Wiseman Traditional Council

(see Fairbanks)

Alaska Court System (alphabetical by location)

Ambler

Magistrate Janet I. Henry
[also serves Kobuk (978-2217)
and Shungnak (437-2161)]
Box 86028
Ambler, AK 99786
Phone: (907) 445-2137
Fax: (907) 445-2136
Region: Bering Straits

Anchorage

12 Superior Court Judges
9 District Court Judges
5 Magistrates
Clerk of Court
303 K Street
Anchorage, AK 99501-2083
Phone: (907) 274-8611
Fax: (907) 279-8218
Region: Aleutian/Pribilof Islands
Bristol Bay
Cook Inlet

Angoon

Magistrate John Howard, Sr.
Box 202
Angoon, AK 99820-0202
Phone: (907) 788-3229
Region: Southeast

Aniak

Magistrate Terry Bissonnette
Box 147
Aniak, AK 99557-0147
Phone: (907) 675-4325
Fax: (907) 675-4278
Region: Yukon Kuskokwim Delta

Barrow

Superior Court Judge Michael Jeffery
Magistrate Dan Cadra
Deputy Mag. Jeri Cleveland
Box 2700
Barrow, AK 99723-2700
Phone: (907) 852-4800
Fax: (907) 852-4801
Region: North Slope

Bethel

Superior Court Judge Dale Curda
Magistrate Craig McMahon
Box 130
Bethel, AK 99559-0130
Phone: (907) 543-3348
Fax: (907) 543-4419
Region: Yukon Kuskokwim Delta

Cordova

Magistrate Susan Weltz
Deputy Magistrate Nancy Plucker
Box 898
Cordova, AK 99574-0898
Phone: (907) 424-3378/7578
Fax: (907) 424-7581
Region: Prince William Sound/Gulf of Alaska

Craig

Magistrate Christine Ellis
Deputy Mag. Kay Clark
Box 646
Craig, AK 99921-0646
Phone: (907) 826-3316
Region: Southeast

Delta Junction

Magistrate Tracy L. Blais
Box 401
Delta Junction, AK 99737
Phone: (907) 895-4211
Fax: (907) 895-4204
Region: Interior

Dillingham

Magistrate (vacant)
Deputy Magistrate Darleen Burton
Box 909
Dillingham, AK 99576-0909
Phone: (907) 842-5215
Fax: (907) 842-5746
Region: Bristol Bay

Emmonak

Magistrate Dorothy Kameroff
Box 176
Emmonak, AK 99581-0176
Phone: (907) 949-1748
Fax: (907) 949-1535
Region: Yukon Kuskokwim Delta

Fairbanks

Fairbanks Superior and District Courts
 Eight judges
 Committing Mag. John Hessin
 Acting Dist Ct. Judge/Committing Mag.
 Wm. Ronald Smith
 604 Barnette Street
 (check with court for room numbers to be
 used in addressing mail)
 Fairbanks, Alaska 99701
Clerk's Office: (907) 452-9263
Region: Interior

Fort Yukon

Magistrate Thomas Knudson
 Box 211
 Fort Yukon, AK 99740-0211
Phone: (907) 662-2336
Fax: (907) 662-2824
Region: Interior

Galena

Magistrate James A. Jackson
 [also serves McGrath]
 Box 167
 Galena, AK 99741-0167
Phone: (907) 656-1322
Fax: (907) 656-1546
Region: Interior

Gambell/Savoonga

Magistrate (vacant)
 Box 234
 Gambell/Savoonga, AK 99769-0234
Phone: (907) 984-6011
Fax: (907) 984-6927
Region: Bering Straits

Glennallen

Magistrate Jean Wilkinson
 Deputy Mag. Linda Woodcock
 Box 86
 Glennallen, Alaska 99588-0086
Phone: (907) 822-3405
Region: Copper River

Haines

Magistrate Linn H. Asper
 Deputy Mag. Lesley Ann Olerud
 Box 169
 Haines, AK 99827-0169
Phone: (907) 766-2801
Fax: (907) 766-3148
Region: Southeast

Healy

Magistrate Paul Verhagen
 Deputy Mag. Anita Talerico
 Box 298
 Healy, AK 99743-0298
Phone: (907) 683-2589
Fax: (907) 683-2213
Region: Interior

Homer

Dist. Ct. Judge M. Francis Neville
 Deputy Mag. Jeannette Olson
 Deputy Mag. Dianna Boucher
 3670 Lake Street, Suite 400
 Homer, Alaska 99603-7686
Phone: (907) 235-8171
Fax: (907) 235-4257
Region: Cook Inlet
 Prince William Sound/Gulf of Alaska

Hoonah

Magistrate Maxine L. Savland
 Box 260
 Hoonah, AK 99829-0260
Phone: (907) 945-3668
Fax: (907) 945-3445
Region: Southeast

Hooper Bay

Magistrate (vacant)
 [also serves Scammon Bay]
 Box 114
 Hooper Bay, AK 99604-0114
Phone: (907) 758-4728
Fax: (907) 758-4920
Region: Yukon Kuskokwim Delta

Juneau

Superior Ct Judge W. Carpeneti
 Superior Ct Judge Larry Weeks
 District Ct Judge Peter Froehlich
 Magistrate/Coroner John Sivertsen, Jr.
 Deputy Mag. Margaret Hendon
 Box 114100
 Juneau, AK 99811-4100
Phone: (907) 463-4741/4742
Fax: (907) 463-3788
Region: Southeast

Kake

Magistrate Mike A. Jackson
 Box 100
 Kake, AK 99830-0100
Phone: (907) 785-3651
Fax: (907) 785-3152
Region: Southeast

Kenai

Superior Ct Judge Charles Cranston
Superior Ct Judge Jonathan Link
Magistrate Lynn Christensen
Deputy Mag. Robin L. Andree
Deputy Mag. Deirdre J. Cheek
145 Main Street Loop
Room 106, Main Floor
Kenai, Alaska 99611-7723
Phone: (907) 283-3117
Fax: (907) 283-4121
Region: Cook Inlet
Prince William Sound/Gulf of Alaska

Ketchikan

Superior Court Judge Michael Thompson
Superior Court Judge Thomas M. Jahnke
District Court Judge George L. Gucker
Magistrate/Coroner Susan Thomsen
415 Main St., Room 400
Ketchikan, AK 99901-6399
Phone: (907) 225-9876, 3197, 3195
Fax: (907) 225-0572
Region: Southeast

Kiana

Magistrate Rudy Hecker
[also serves Noorvik and Selawik]
Box 170
Kiana, AK 99749-0170
Phone: (907) 475-2167
Fax: (907) 475-2169
Region: Bering Straits
Kotzebue Sound

Kodiak

Superior Court Judge Donald D. Hopwood
Magistrate Anna M. Moran
Deputy Mag. Lori A. Wade
202 Marine Way
Kodiak, AK 99615-9987
Phone: (907) 486-5765
Fax: (907) 486-6738
Region: Kodiak Island

Kotzebue

Superior Court Judge Richard Erlich
Magistrate James Benedetto
Deputy Mag. May N. Pannick
Box 317
Kotzebue, AK 99752-0317
Phone: (907) 442-3208
Fax: (907) 442-3552
Region: Kotzebue Sound

McGrath (served by Galena Magistrate)

Region: Interior

Mountain Village

[served by St. Mary's magistrate]
Region: Yukon Kuskokwim Delta

Naknek

Magistrate William W. Garrison
Deputy Magistrate Julie Jedlicka
Box 229
Naknek, AK 99633-0229
Phone: (907) 246-4240
Fax: (907) 246-6151
Region: Bristol Bay

Nenana

Magistrate Paul Verhagen
Box 449
Nenana, AK 99760-0449
Phone: (907) 832-5430
Fax: (907) 832-5841
Region: Interior

Nome

Superior Court Judge Charles R. Tunley
Magistrate Bradley Gater
Deputy Magistrate Janet M. Tobuk
Box 1110
Nome, AK 99762-1110
Phone: (907) 443-5216
Fax: (907) 443-2192
Region: Bering Straits

Palmer

Superior Court Judge Beverly Cutler
District Court Judge Peter Ashman
Magistrate Dave Zwink
Magistrate Judy Spartz
Dep. Magistrate Joanne Graham
Dep. Magistrate Jackie Allen
435 South Denali Street
Palmer, AK 99645
Phone: (907) 745-5071
Fax: (907) 746-4151
Region: Cook Inlet

Pelican

Magistrate Gail D. Corbin
Box 36
Pelican, AK 99832-0036
Phone: (907) 735-2217
Fax: (907) 735-3018
Region: Southeast

Petersburg

Superior Ct Judge Thomas Jahnke
 Magistrate Darlene A. Whitethorn
 Deputy Mag. Chris Morrison
 Box 1009
 Petersburg, AK 99833-1009
Phone: (907) 772-3824
Fax: (907) 772-3018
Region: Southeast

Point Hope

Magistrate Connie Oomittuk
 Box 51
 Point Hope, AK 99766-0051
Phone: (907) 368-2912
Fax: (907) 368-2915
Region: North Slope

Quinhagak

Magistrate (vacant)
 Box 109
 Quinhagak, AK 99655-0109
Phone: (907) 556-8015
Fax: (907) 556-8247
Region: Yukon Kuskokwim Delta

St. Mary's

Magistrate (vacant)
 [also serves Mountain Village]
 Box 183
 St. Mary's, AK 99658-0183
Phone: (907) 438-2912
Fax: (907) 438-2819
Region: Yukon Kuskokwim Delta

St. Paul Island

Magistrate (vacant)
 P.O. Box 170
 St. Paul Island, AK 99660-0076
Phone: (907) 546-2300
Fax: (907) 546-2489
Region: Aleutian/Pribilof Islands

Sand Point

Magistrate John F. Eppling
 [also serves Cold Bay]
 P.O. Box 89
 Sand Point, AK 99661-0089
Phone: (907) 383-3591
Fax: (907) 383-5385
Region: Aleutian/Pribilof Islands

Scammon Bay

[served by Hooper Bay magistrate]
Region: Yukon Kuskokwim Delta

Seward

Magistrate George Peck
 Deputy Mag. Jean Lewis
 Box 1929
 Seward, Alaska 99664-1929
Phone: (907) 224-3075
Fax: (907) 224-7192
Region: Prince William Sound/Gulf of Alaska

Sitka

Superior Ct Judge Larry C. Zervos
 Magistrate Bruce E. Horton
 Deputy Mag. Charlotte Swanberg
 304 Lake St.
 Room 203
 Sitka, AK 99835-7759
Phone: (907) 747-6271
Fax: (907) 747-6690
Region: Southeast

Skagway

Magistrate Lucile Tidwell
 Box 495
 Skagway, AK 99840-0495
Phone: (907) 983-2368
Fax: (907) 983-2151
Region: Southeast

Tanana

Magistrate Paul Verhagen
 Box 231
 Tanana, AK 99777-0231
Phone: (907) 366-7243
Region: Interior

Tok

Magistrate Allen Vaira
 Deputy Mag. Evelyn Carson
 Box 187
 Tok, AK 99780-0187
Phone: (907) 883-5171/2
Region: Copper River

Unalakleet

Magistrate (vacant)
 Box 185
 Unalakleet, AK 99684-0185
Phone: (907) 624-3015
Fax: (907) 624-3118
Region: Bering Straits

Unalaska

Magistrate Mary Hawkins
Box 245
Unalaska, AK 99685-0245
Phone: (907) 581-1266
Fax: (907) 581-2809
Region: Aleutian/Pribilof Islands

Valdez

Superior Court Judge Glen Anderson
Magistrate (vacant)
Box 127
Valdez, Alaska 99686-0127
Phone: (907) 835-2266
Region: Copper River
Prince William Sound/Gulf of Alaska

Whittier

Magistrate (vacant)
Box 729
Whittier, AK 99693
Phone: (907) 472-2356
Fax: (907) 472-2456
Region: Prince William Sound/Gulf of Alaska

Wrangell

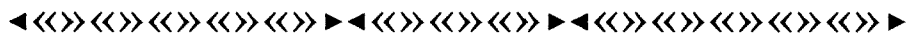
Superior Court Judge Thomas Jahnke
Magistrate Linda Hartshorn
Deputy Mag. Anna Lowe
Alt. Deputy Mag. Jeanne Lukinich
Box 869
Wrangell, Alaska 99929-0869
Phone: (907) 874-2311
Region: Southeast

Yakutat

Magistrate Victoria Demmert
Box 426
Yakutat, Alaska 99689-0426
Phone: (907) 784-3274
Region: Southeast

Appendix B

Recent Developments in Alaska Native Law



This appendix discusses developments in Alaska Native law that have occurred since August of 1992, when the Judicial Council published its first report on alternative dispute resolution in rural Alaska.¹ This appendix is not intended to stand alone, but rather to supplement Chapter III of the earlier report.

1. Solicitor's Opinion

Perhaps the most dramatic development in the past six months was the release, during the last week of the Bush Administration's tenure, of the U.S. Department of the Interior Solicitor's opinion on the governmental jurisdiction of Alaska Native villages over land and nonmembers. The 133-page opinion was neither a total victory for tribal advocates nor for state interests. The opinion concluded that Alaska Native villages may be tribes for purposes of federal Indian law,² but that the status of Indian country in

¹ Chapter three of that report, *RESOLVING DISPUTES LOCALLY: ALTERNATIVES FOR RURAL ALASKA*, summarized basic principles of Indian law and related legal issues in Alaska for the purpose of setting a context in which to evaluate the Sitka and Minto tribal courts. The report is available, free of charge, by writing or calling the Judicial Council.

² *Governmental Jurisdiction of Alaska Native Villages over Land and Nonmembers*, Op. Solicitor (Dep't of Interior) No. M-36975, 48 (January 1993).

Alaska probably prevents most Alaska Native tribes from exercising jurisdiction over land and nonmembers.³

The conclusion that Alaska Native villages are tribes was based largely on evidence that in the past half century Congress and the Department of the Interior "have dealt with Alaska Natives as though there were tribes in Alaska."⁴ In coming to this conclusion, the Solicitor expressly rejected as unpersuasive arguments that Alaska Native organization is not tribal, that the United States did not recognize Alaska Natives as tribes because it did not enter treaties with them, and that the historical subjection of Alaska Natives to territorial or state law divested them of their status as tribes.⁵

The conclusion that Alaska Native tribes probably can not exercise jurisdiction over land and nonmembers was based largely on the conclusion that "the nature of Native land tenure in Alaska after ANCSA leaves little if any room for finding the existence of a dependent Indian community for purposes of classifying lands as Indian country."⁶ The opinion reasoned that some lands in Alaska can be classified as Indian country for purposes of federal protection and jurisdiction, but that Indian country probably does not exist in Alaska for purposes of tribal jurisdiction and control over nonmembers.⁷

The impact of this opinion has yet to be demonstrated. The new administration could decide to disregard it and issue another in its stead. Also, the Solicitor's conclusions are not binding on courts, although in general solicitors' opinions are regarded as persuasive authority.

³ *Id.* at 108.

⁴ *Id.* at 47. The evidence of Congressional intent was drawn in large part from the legislative history and structure of ANCSA. The opinion concluded that Congress did not intend for ANCSA to affect the retained governmental powers of tribes to determine membership and to regulate internal tribal relations. *Id.* at 107.

⁵ *Id.* at 48-58. The Solicitor also rejected the argument that ANCSA was termination legislation extinguishing the sovereign powers of Native villages that are tribes. *Id.* at 107.

⁶ *Id.* at 113. The opinion addressed in turn each of the three categories of Indian country, reservations, dependent Indian communities, and allotments. The opinion concluded that Native village governmental powers over village-owned townsite lands depends on a fact-specific inquiry as to whether the village is a dependent Indian community, but that village-owned fee lands do not as a general rule qualify as dependent Indian communities; and that although Alaska Native allotments and individually owned restricted Native townsite lots may constitute Indian country, there is little or no basis for a Native village to claim territorial jurisdiction over those allotments and lots. *Id.* at 132-33.

⁷ *Id.* at 124.

2. State Court Opinions

The most visible state court opinion to come down in the past few months is an ICWA case.⁸ In that case the Alaska Supreme Court reaffirmed its decisions in *Native Village of Nenana v. Department of Health and Social Services*⁹ and *In re K.E.*,¹⁰ expressly considering and rejecting as unpersuasive the federal courts' interpretation of ICWA under which Alaska Native groups that can show they are sovereign tribes may share jurisdiction with the State over child custody matters without petitioning the Secretary of the Interior for approval.¹¹ Although the court's conclusion was not unexpected, this opinion was the first in which it squarely addressed, and rejected, the federal line of authority.

3. Federal Court Opinions

Although no major federal opinions have been handed down in the past few months, several important cases are progressing. In *Chilkat Indian Village v. Johnson*,¹² the federal district court remanded the Chilkat tribe's action against several members for return of artifacts to the tribal court for resolution. The trial has been concluded and judgment is anticipated during the summer of 1993. In another case, the Kluti Kaah Tribal Court may be called upon to decide complex taxation matters at issue in *Alyeska Pipeline Service Company v. Kluti Kaah Native Village of Copper Center*.¹³ If the judge rules that the Kluti Kaah constitute a sovereign tribe, the issues of the existence and extent of the tribal court's jurisdiction could, on the authority of *National Farmers Union Ins. Co. v. Crow Tribe*,¹⁴ go before the tribal court for exhaustion of tribal remedies.

⁸ *In the Matter of F.P., W.M. and A.M.*, Slip. Op. No. 3906 (Alaska December 18, 1992).

⁹ 722 P.2d 219 (Alaska 1986), *cert. denied*, 479 U.S. 1008 (1986).

¹⁰ 744 P.2d 1173 (Alaska 1987).

¹¹ *In the Matter of F.P., et. al.*, Slip Op. No. 3906 at 2-3.

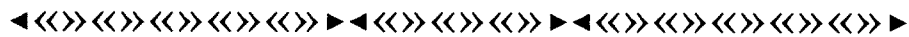
¹² 870 F.2d 1469 (9th Cir. 1989).

¹³ No. A87-201 Civil (D. Alaska), Tentative Order on Defendants' Motions to Dismiss and for Summary Judgment, dated January 17, 1992.

¹⁴ 471 U.S. 845 (1985).

Appendix C

Data Collection Form for Information about Rural Organizations



Judicial Council staff designed the following form to compile information about the rural organizations that resolve disputes, including tribal councils, tribal courts and conciliation or other alternative dispute resolution organizations. Limited time and travel resources did not permit us to collect such detailed data about more than a few tribal courts and councils. However, the Judicial Council plans to update this directory and asks that any organization that is interested in sharing more information about its work fill out this form and return it (or a copy) to the Judicial Council at *1029 West Third Avenue, Suite 201, Anchorage, AK 99501*.

The primary reasons for sharing the information are two: first, other tribal courts and councils, the staff of the regional Native non-profit corporations, and members and staff of other Native organizations benefit greatly by knowing how similar organizations operate throughout the State. They can see how problems in administration of the organization's business have been resolved, and how other organizations meet the needs of their communities and tribes. Second, people in state and other governmental agencies benefit by understanding better the qualities and abilities of the local organizations that are resolving family issues, enforcing local ordinances, controlling alcohol abuse, and applying traditional law. This understanding can lead to more regular and more helpful interactions among the various organizations and agencies.

The form asks for a wide variety of information. Some questions may not apply to all organizations. Other questions may ask for information that an organization considers sensitive and would prefer not to answer. Please feel free to omit any questions that fit into these categories. If other questions are not clear, please feel free to call the Judicial Council and ask about them, at (907) 279-2526 [FAX is (907)276-5046]. We appreciate your help and look forward to hearing from you.

**Rural Dispute Resolution Organizations
ADR Data Entry Form**

A. Administrative and Demographic Data

_____ Contact person

_____ Contact person's telephone number

Name of organization _____

Address _____

Type of organization (*check one*) _____ Tribal Court
_____ Village Council
_____ Non profit Corporation
_____ Other (specify): _____

Comments on type of organization _____

Population served (<i>check one</i>) _____ Tribal Court _____ Village Council _____ Non profit Corporation _____ All State Residents _____ Other (specify): _____																			
<i>(Check all that apply)</i>																			
<p style="text-align: center;">If tribe involved, which tribe:</p> <table style="width: 100%;"><tr><td><input type="radio"/> Aleut</td><td><input type="radio"/> North Slope Inupiat</td></tr><tr><td><input type="radio"/> Alutiiq</td><td><input type="radio"/> Northwest Inupiat</td></tr><tr><td><input type="radio"/> Athabascan</td><td><input type="radio"/> Tlingit</td></tr><tr><td><input type="radio"/> Eyak</td><td><input type="radio"/> Tsimshian</td></tr><tr><td><input type="radio"/> Haida</td><td><input type="radio"/> Yupik</td></tr><tr><td></td><td><input type="radio"/> Other Tribe</td></tr></table> <p>Comments on population served _____ _____ _____</p>	<input type="radio"/> Aleut	<input type="radio"/> North Slope Inupiat	<input type="radio"/> Alutiiq	<input type="radio"/> Northwest Inupiat	<input type="radio"/> Athabascan	<input type="radio"/> Tlingit	<input type="radio"/> Eyak	<input type="radio"/> Tsimshian	<input type="radio"/> Haida	<input type="radio"/> Yupik		<input type="radio"/> Other Tribe	<p style="text-align: center;">Specify any other ethnic group served:</p> <table style="width: 100%;"><tr><td><input type="radio"/> Caucasian</td></tr><tr><td><input type="radio"/> Asian-American</td></tr><tr><td><input type="radio"/> Filipino</td></tr><tr><td><input type="radio"/> African-American</td></tr><tr><td><input type="radio"/> Hispanic</td></tr><tr><td><input type="radio"/> Other ethnic</td></tr></table>	<input type="radio"/> Caucasian	<input type="radio"/> Asian-American	<input type="radio"/> Filipino	<input type="radio"/> African-American	<input type="radio"/> Hispanic	<input type="radio"/> Other ethnic
<input type="radio"/> Aleut	<input type="radio"/> North Slope Inupiat																		
<input type="radio"/> Alutiiq	<input type="radio"/> Northwest Inupiat																		
<input type="radio"/> Athabascan	<input type="radio"/> Tlingit																		
<input type="radio"/> Eyak	<input type="radio"/> Tsimshian																		
<input type="radio"/> Haida	<input type="radio"/> Yupik																		
	<input type="radio"/> Other Tribe																		
<input type="radio"/> Caucasian																			
<input type="radio"/> Asian-American																			
<input type="radio"/> Filipino																			
<input type="radio"/> African-American																			
<input type="radio"/> Hispanic																			
<input type="radio"/> Other ethnic																			

Information about community served _____

Community served _____

Community organization _____

(check all that apply)

IRA

Traditional

ANCSA

Incorp

Comments on community organization _____

Community population _____ Startup date _____

Continuity of operation (check one)

_____ Operates continuously

_____ Operates *ad hoc*

_____ Operates sometimes

_____ Inactive for one year or more

Comments on continuity of operation _____

Community Justice Resources

(check all that apply):

Magistrate

Superior Court

VPSO

Trooper

VPO

Lockup

Comments: _____

Annual budget _____ Under \$500 Comments on budget: _____
 _____ \$500 - \$999 _____
 _____ \$1,000 - \$9,999 _____
 _____ \$10,000 - \$49,999 _____
 _____ \$50,000+

Source of funds _____

(Check all that apply)

- BIA
- Other federal
- Village council
- Other source

Specify percent of budget spent on each category:

- Decision-makers _____(%) Training _____(%)
- Equipment _____(%) Other expenses _____(%)
- Other staff _____(%)

<input type="checkbox"/> In-kind contributions received?	
<p style="text-align: center;">If yes, from whom?</p> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 10px;"/> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 10px;"/> <p style="text-align: center;"><i>(Check all that apply)</i></p> <ul style="list-style-type: none"> <input type="radio"/> Volunteers <input type="radio"/> Funding source <input type="radio"/> Another organization (specify above) 	<p style="text-align: center;">If yes, what kind?</p> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 10px;"/> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 10px;"/> <p style="text-align: center;"><i>(Check all that apply)</i></p> <ul style="list-style-type: none"> <input type="radio"/> Space (office or court) <input type="radio"/> Clerical help <input type="radio"/> Filing space <input type="radio"/> Other equipt <input type="radio"/> Office supplies, postage <input type="radio"/> Other staff <input type="radio"/> Phone

Decision-makers (e.g., judges, Council members, conciliators) receive training?

If yes, who trains them?

(Check all that apply)

- Present judge(s) Outside organization
 Village council Other (specify): _____

If yes, what kind of training?

Written records kept?

Type of records kept _____

Describe staff (if any) _____

Name(s) of decision-maker(s) _____

B. Caseload and Procedural Data

Law applied (check all that apply):

ICWA Written or unwritten traditional law

Other federal law Local law

State law

Comments: _____

(Average) Annual caseload _____

Types of cases _____

Nature of proceedings _____

Case dispositions _____

Sanctions (e.g., fines, community work service, helping elders) _____

Appeals, if any--to what organization? _____

Enforcement mechanism(s), if any _____

Source(s) of referrals (e.g., VPSO, complainants, social workers, other courts/councils)

Contact with state agencies and personnel _____

Contact with local government _____

General comments _____

