Alaska Advisory Committee to the U.S. Commission on Civil Rights

Racism's Frontier:

The Untold Story of Discrimination and Division in Alaska

April 2002

A fact-finding report of the Alaska Advisory Committee to the U.S. Commission on Civil Rights prepared for the information and consideration of the Commission. Statements and recommendations in this report should not be attributed to the Commission, but only to participants at the community forums or to the Advisory Committee.

The United States Commission on Civil Rights

The U.S. Commission on Civil Rights is an independent, bipartisan agency established by Congress in 1957, reconstituted in 1983, and reauthorized in 1994. It is directed to investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, or national origin, or by reason of fraudulent practices; study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice; appraise federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice; serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin; submit reports, findings, and recommendations to the President and Congress; and issue public service announcements to discourage discrimination or denial of equal protection of the laws.

The State Advisory Committees

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

This report is available on disk in ASCII and WordPerfect 5.1 for persons with visual impairments. Please call (202) 376-8110. It is also posted on the Commission's Web site at www.usccr.gov.

Racism's Frontier:

The Untold Story of Discrimination and Division in Alaska

Letter of Transmittal

Alaska Advisory Committee to
the U.S. Commission on Civil Rights

Members of the Commission
Mary Frances Berry, *Chairperson*
Cruz Reynoso, *Vice Chairperson*
Jennifer C. Braceras
Christopher Edley, Jr.
Elsie M. Meeks
Abigail Thernstrom
Victoria Wilson

Les Jin, *Staff Director*

Attached is a report from the Alaska Advisory Committee based on fact-finding and community forums held August 23–24, 2001, and October 25, 2001, to collect information on education, employment, and administration of justice concerns of particular relevance to Alaskan Natives in the state. Both meetings were held in Anchorage, the largest urban center. Commission Vice Chairperson Cruz Reynoso and Commission members Yvonne Y. Lee and Elsie Meeks joined the Alaska Advisory Committee in the August forum, and Commission member Yvonne Y. Lee (whose term as commissioner ended December 2001) joined the Alaska Advisory Committee in the October forum. Discrimination against Alaska Natives and other minorities in the state has long been a concern of the Alaska Advisory Committee. At its meetings since 1998, members alleged that a climate of tolerance for bigotry had been developing for a number of years. Beginning in May 1999, the Advisory Committee encouraged the state's governor to convene a statewide conference on race.

At its April 26, 2001, meeting, the Advisory Committee was briefed by a representative of the Alaska Federation of Natives on discrimination that he alleged had been ongoing since the Native population had been met by early explorers. A recent and overt example, he said, had been a January 2001 incident involving three youths who had videotaped themselves shooting frozen paintballs at Alaska Native victims on the streets of Anchorage.

The Advisory Committee determined that it should conduct community forums to collect data on the allegations of discrimination facing Alaska Natives and, to the extent there is overlap, other minorities. Members of the Advisory Committee believed their effort should focus on education, employment, and the administration of justice, and formed a subcommittee to define the parameters of the study. The Advisory Committee believed strongly that it should involve the U.S. Commission on Civil Rights in this endeavor. The Commission decided that it would assist the Advisory Committee in obtaining information at the forums through the participation of members of the Commission.

Many forum participants suggested that an urban/rural divide had worked to the detriment of Native Alaskans, who for the most part reside in the state's rural villages. They alleged a lack of law enforcement, scarcity of employment opportunities, and limited educational opportunities for these rural residents. Native Alaskans who reside in the state's urban areas suggested that the situation in education, employment, and in the administration of justice also paints a picture of discrimination.

While the Advisory Committee is encouraged by the efforts of the governor and of the mayor of Anchorage to deal with the issues raised since the paintball incident, it seeks to ensure that action is implemented to finally deal with the concerns of the state's Native population and discrimination in general.

The Advisory Committee appreciates the support of Vice Chairperson Cruz Reynoso and Commissioners Yvonne Y. Lee and Elsie Meeks, who participated, and the voluntary contribution of the people of Alaska, both Native and non-Native, who appeared before the Advisory Committee panel.

The Advisory Committee approved submission of this report to the Commission without objection. It is hoped that the report will encourage constructive change and equitable solutions. The time for action on longstanding recommendations is now, and Alaska's efforts could prove to be a model for solutions in other parts of the nation.

Respectfully,

Gilbert F. Gutierrez, *Chairperson*
Alaska Advisory Committee

Alaska Advisory Committee to the U.S. Commission on Civil Rights

Gilbert F. Gutierrez, *Chairperson*
Valdez

Daniel Alex
Anchorage

Thelma Garcia Buchholdt
Anchorage

Sylvia Garza Carvajal*
Anchorage

Robert Gonzalez
Anchorage

Murilda C. Hayes
Fairbanks

Beverly L. Masek
Willow

Mary A. Miller
Nome

Thaddeus J. Owens
Anchorage

Mitchel J. Schapira
Anchorage

Rosalee T. Walker
Juneau

Michael J. Walleri
Fairbanks

* Moved from the state following the Advisory Committee's project.

Acknowledgments

The Alaska Advisory Committee wishes to thank staff of the Commission's headquarters office in Washington, D.C., and the Western Regional Office in Los Angeles for their assistance in the preparation of this report. The project was the principal assignment of Thomas V. Pilla, with support at both forums from Grace Hernandez and Angelica Trevino, all of the Western Regional Office. Ivy L. Davis and Mireille Zieseniss of the Commission's Washington, D.C., office provided support at the August forum. Mireille Zieseniss drafted this report. Dawn Sweet provided editorial assistance and prepared the report for publication. Dorothy Pearson-Canty provided duplication services. The project was carried out under the supervision of Philip Montez, regional director.

Contents

Appendix

Figure

Tables

Preface

On April 26, 2001, the Alaska Advisory Committee to the U.S. Commission on Civil Rights held a meeting in Anchorage. The meeting was a briefing on discrimination faced by Alaska Natives in the state. Albert Kookesh, co-chairman of the Alaska Federation of Natives and an elected member of the state legislature, expressed the federation's concern about the rise in racial tensions it observed and alleged a pattern of discrimination against Alaska Natives. He described a January 2001 incident where three white teenagers driving around Anchorage shot frozen paintballs at Alaska Natives. The incident, he said, was another indication of racial intolerance toward Alaska's first people.

While the paintball incident spurred the Advisory Committee's request for Commission involvement, it was not the prime motivation for the Committee's interest in the concerns of Alaska Natives and other minorities in the state, and it was not the first time the issue of racial tensions had been brought to the attention of the Committee. At their meeting of May 20, 1999, the members of the Advisory Committee discussed their perceptions about a seeming rise in racial tensions throughout the state. Members believed the issue should be brought to the attention of officials in state government, and the Advisory Committee approved a letter to the governor requesting that he convene a statewide conference on race. In the letter, the Advisory Committee expressed its belief "that the State of Alaska would benefit from a formalized dialogue on race under the auspices of the Office of the Governor." [1] On June 14, 1999, the Commission's Western Regional Office received a telephone call from the governor's office requesting information on the President's Commission on Race. A contact at the White House Office on the Initiative for One America, the successor agency for the President's Commission on Race, was provided to the office of the governor.[2]

By the following spring, there was no indication of progress on the Advisory Committee's recommendation. At its meeting of May 18, 2000, the Advisory Committee agreed to send a follow-up letter, including copies of the May 28 and June 14, 1999, letters, to the governor's office reiterating the need for a statewide conference on race.[3] In a letter dated June 26, 2000, David Ramseur, chief of staff, office of the governor, responded:

> The Governor is heartened and most supportive of President Clinton's initiatives to bring Americans together, regardless of race. He applauds the work of the President's Commission on Race. In Alaska, Governor Knowles has undertaken many initiatives to bring Alaskans together.
>
> He has launched one of the boldest steps in Alaska's history to improve the status of All Alaskans by working closely with Alaska Native tribes. In an historic effort, the Governor is working with tribes on a government-to-government basis to better improve the delivery of services to all Alaskans, with a special focus on Native Alaskans, many of who live in small, remote villages and are often without the modern conveniences or economic opportunities many Americans take for granted. Nearly 100 tribal representatives and state and federal officials recently participated in a successful two-day conference on this initiative.
>
> In fulfilling a campaign promise, Governor Knowles re-energized the state Office of Equal Employment Opportunity by moving it from a state agency into the Office of the Governor and beefing up its staffing and responsibilities. The Office counts many successes in increasing minority hires in state government. Its director, Thelma Buchholdt, is a member of your Alaska Advisory Committee.

---

[1] Gilbert F. Gutierrez, chairperson, Alaska Advisory Committee, U.S. Commission on Civil Rights, letter to Tony Knowles, governor, State of Alaska, May 28, 1999.

[2] Thomas V. Pilla, Western Regional Office, U.S. Commission on Civil Rights, letter to Jesse Kiehl, Office of the Governor, State of Alaska, June 14, 1999.

[3] Thomas V. Pilla, Western Regional Office, U.S. Commission on Civil Rights, letter to Nina Hartwig, Office of the Governor, State of Alaska, May 24, 2000.

> Governor Knowles has directed his regional offices to initiate regular contact with minority groups in Alaska's largest communities, Anchorage and Fairbanks. The diversity of groups involved includes Koreans, Tongans, African-Americans, and Hispanics.
>
> Governor Knowles has appointed many minority Alaskans to top positions in state government, from the judicial and executive branches to prominent state boards and commissions.
>
> The Governor is working hard to bring Alaskans of diverse races together by trying to solve the subsistence issue, in which Native and rural Alaskans depend on fish and game for their sustenance. Despite legislative efforts to deny a subsistence priority to rural Alaskans, the Governor has brought Alaska closer than ever to a permanent solution to this dilemma.
>
> As a result of these initiatives, and many others undertaken at other levels of government and by private Alaskans and organizations, we feel a statewide conference on race is unnecessary at this time. We look forward to working with your office, the Commission and the Alaska Advisory Committee to improve relations between Alaskans of all races.[4]

Despite the above response, the Advisory Committee still believed the state would benefit from a dialogue on race sponsored by the office of the governor. It reiterated this stance at its meeting of September 21, 2000, and supported calls for action to combat racism by the Alaska Federation of Natives and other organizations and individuals. Then, in January 2001, the paintball incident occurred and the greater community appeared shocked by the event. The governor formulated a multipronged action plan that included the creation of a Commission on Tolerance and appointment of commissioners to conduct a study and issue a report. The mayor of Anchorage, using his "Kitchen Cabinet" of individuals from the community who advise the mayor on issues affecting local government, convened citywide workshops and minihearings to allow citizens an opportunity to express their thoughts and make recommendations to the municipality. The Advisory Committee is hopeful that the dialogue surrounding the paintball incident will continue and generate action on recommendations.

At its meeting of April 26, 2001, the Advisory Committee heard the presentation from the Alaska Federation of Natives and considered a course of action. It voted unanimously to conduct a series of forums to collect information on discrimination in education, employment, and in the administration of justice faced by Alaska Natives in the state. The first community forum was held August 23–24, 2001, and a second one-day forum was held October 25, 2001, in conjunction with the annual conference of the Alaska Federation of Natives to allow for the participation of Alaska Natives from villages and rural areas of the state who may not have been able to participate in August. Both forums were held in Anchorage. Perhaps the overriding concern that emerged was the sense of frustration on the part of Alaska Natives and other minorities who said that the problem of discrimination has been studied and restudied; and findings and recommendations have been shared and released in report after report and seemingly forgotten. The impact of the urban/rural divide on the provision of governmental funding and services, allegations of unequal protection by law enforcement, lack of employment opportunities, and disparities in educational achievement were prevailing complaints heard by the Advisory Committee and Commissioners in attendance.

The Advisory Committee is thankful for the cooperation it received from the office of the governor, cabinet-level officials, legislative leaders, the mayor of Anchorage, law enforcement, federal, state, and local agencies, various community-based organizations, and private citizens. The Advisory Committee is hopeful that the dialogue spurred by the paintball incident results in ongoing concern and constructive action.

---

[4] David Ramseur, deputy chief of staff, Office of the Governor, State of Alaska, letter to Thomas Pilla, Western Regional Office, U.S. Commission on Civil Rights, June 26, 2000.

CHAPTER 1

An Overview of Alaska's Problems and Promises

> *Having been born a Native, raised in my village and having lived my life in Alaska, I can say with conviction that there has not been a worse moment in Alaska's recent history for Alaska's Native peoples than now. In spite of all the gains Natives have made for themselves in virtually every area of public and private endeavor, the result is a society in Alaska that only dimly comprehends their existence and seems more and more unwilling to accept, let alone celebrate, the Native place in Alaska*.[1]

The state of Alaska's motto, *North to the Future*, is a promise and "a reminder that beyond the horizon of urban clutter, there is a Great land beneath [the state's] flag that can provide a new tomorrow for this century's huddled masses yearning to be free."[2] This freedom has come at the expense of the state's Native people; for, in their zeal to exploit the state's resources, masses of newcomers have consistently failed to recognize and respect the rights of Native Alaskans.[3]

Years of external influence on the state have resulted in what many view as outright discrimination against and marginalization of Alaska Natives.[4] Traditionally, only those who have been directly affected by inequity have had any awareness of it, but the publicity of recent hate-influenced events has made the recognition of bias inescapable. In January 2001, three teenagers combed the streets of Anchorage looking for targets for a vicious game of tag. Their weapon of choice: paintball guns. Their victims: unarmed Natives. To compound matters, one Native Alaskan victim of the attacks stopped a passing police car to report being shot and was arrested and charged with disorderly conduct, and served 10 days in jail. The perpetrators videotaped their criminal escapades, which attracted national media attention and spurred outrage across the country. This event, while startling to those in the "lower 48," came as no surprise to the Native Alaskans for whom such hostility is part of everyday life. According to one Native elder:

> Those Alaska Natives that were assaulted represent a long history of violations of Alaska Native indigenous people who have experienced these things since the coming of the Russians. It continues to take away our indigenous fundamental rights, lands, resources, and our way of life.[5]

The events on that cold January night were symptomatic of a larger crisis and have served as a catalyst for the evolving dialogue about race relations in Alaska. The discussions that have occurred since have addressed issues that go beyond the specific incident, to include what many describe as institutional racism

---

[1] Byron I. Mallot, commentary, *The Anchorage Daily News*, Apr. 23, 1999, *reprinted in* Alaska Federation of Natives and the Inuit Circumpolar Conference, *Roundtable on Indigenous Self-Governance*, May 10, 1999, p. 18.

[2] Fairbanks North Star Borough Public Library, FAQAlaska Project, "Frequently Asked Questions About Alaska," <http://sled.alaska.edu/akfaq/akgeogr.html>, *quoting* Richard Peter, creator of the state motto.

[3] Steve Douglas, "The Alaska Pipeline," *Environmental Science in Action*, March 2000, <http://miavxl.muohio.edu/~kaufmadg/alaska.html>.

[4] For the purpose of this report, the terms "Alaska Natives" and "Native Alaskans" are used interchangeably, reflecting the terminology used by the various speakers and documents cited.

[5] Apnglik Kiraiuaak, Kozee Council of Elders, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Aug. 24, 2001, transcript, pp. 567–68 (hereafter cited as Aug. 24 transcript).

embedded throughout the state. Anchorage's mayor, in a commentary published in the *Anchorage Daily News*, stated:

> Without a doubt, Anchorage has become a kaleidoscope of cultures, heritage and ethnic backgrounds. This diversity is cause for celebration and community pride. Unfortunately, at times it also becomes the cause for misunderstanding, prejudice and discrimination. . . . On one hand, the telecast [of the videotape made by the perpetrators] produced the victims of the paintball attack and helped us succeed in perfecting our case against the culprits. It also ignited racial protest and anger that spread well beyond Anchorage. By showing white males specifically targeting Alaska Natives with their paintball gun, the tape provided proof of racism in Anchorage. Even if there had been no paintball attack and subsequent public outcry, the fact is Anchorage faces problems of racism.[6]

The January 2001 paintball incident may have been the first realization among the non-Native community in Alaska that hate crimes occur, but for the Native community, the event was one more in a series of hate-inspired acts. With respect to the paintball incident, the Alaska Federation of Natives stated:

> It sent shock waves through non-natives across the state and even gained national media attention. But for the Native community, it was only the latest indication of racial intolerance that permeates modern Alaska and also underlies discriminatory public policies.[7]

The Alaska State Advisory Committee (SAC) to the U.S. Commission on Civil Rights organized a formal discussion about improving race relations in Alaska. Beginning August 23, 2001, the SAC hosted a two-day community forum in Anchorage to solicit input from state, local, and federal officials, representatives from advocacy groups and community organizations, as well as Alaska residents.[8] The forum focused on three areas of civil rights concern—education, employment, and the administration of justice—although many others surfaced during the course of testimony. The forum included two panels of experts in each of these areas, one representing the views of advocacy and community organizations and the other representing the views of government officials.

The SAC also obtained input from community leaders and residents in a daylong session in conjunction with the annual Conference of the Alaska Federation of Natives on October 25, 2001. This report summarizes the issues that arose in the two forums and provides recommendations for how real change can be instituted in the state of Alaska. While many minority groups in Alaska face discrimination, the purpose of the SAC forums was to highlight the issues of particular importance to Native Alaskans, given their status as the largest minority group in the state. To the extent that information was provided on the status and condition of other groups, such as in educational achievement and employment, it is included in the discussions.

A BRIEF HISTORY OF ALASKA

> *Looking back on the recent history of Alaska, it appears that many of the problems of today are related to the attitude of the non-Native caregivers who came to the state in great numbers to "save" the Native people. . . . Before the newcomers came to Alaska the Native people were not in need of salvation. For many centuries their cultural traditions and their knowledge had provided them with the skills to survive successfully in their own environment. The disintegrations started when the non-Native culture, to-*

---

[6] George Wuerch, mayor of Anchorage, "Mayor Seeks to Bridge Racial Gap," commentary, *The Anchorage Daily News*, Aug. 26, 2001, p. G2.

[7] Alaska Federation of Natives, "Briefing on Recent Hate Crimes Against Alaska Natives and Other Acts of Discrimination," submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Apr. 26, 2001 (hereafter cited as AFN, "Briefing on Recent Hate Crimes").

[8] *See* appendix for a list of panelists.

tally foreign to the natural environment of Alaska, caused great disruption between the land and the Native people.[9]

The histories of Alaska Natives and American Indian groups have many similarities. Theirs are histories marked by conquest, genocide, forced cultural and land loss, and the subsequent evolution of alcohol use, violence, and chronic disease.[10] Alaska's history of discrimination dates back to long before statehood to an era of Russian occupation and settlement, which began in the 1740s. Russian settlers came to Alaska to establish the seal fur trade and to develop seaside outposts. In the process, the land's Native peoples, particularly the Aleuts, suffered greatly, as they were forced into enslavement. The tribal lives of Native Alaskans were disrupted for nearly 100 years as the Russians forced them to become loyal subjects and members of their church.[11]

American whalers and traders later followed, and the land was purchased from Russia in 1867 for 2 cents an acre, at a total cost of $7.2 million. After the purchase of Alaska (which is translated from the language of the Aleutian Indians to mean "great land"), the territory was soon forgotten, and it fell into a state of neglect, until the 1890s when a great Gold Rush era ensued.[12] The fervor over the discovery of gold brought many people from the United States to interior Alaska, giving rise to the urban centers of today, Anchorage, Fairbanks, and Juneau.[13] In the process, however, newcomers to the territory failed to consider the rights of the Native people. Most white settlers had little regard for the Native traditions, including hunting and fishing for a living and governing themselves through ancient tribal systems, and took from the Native Alaskans, providing little or nothing in return.[14]

After the decline of gold production, Alaska again found itself neglected, until World War II when the United States recognized the military potential of the region. Eventually, in 1959, Alaska became the 49th state in the Union.

FIGURE 1

Timeline of Alaska's Statehood

1741 →	"Discovery" of Alaska by Russia
1867 →	Land purchased from Russia
1898 →	Gold Rush
1912 →	Alaska organized as a territory
1959 →	Alaska became the 49th state

The two decades following statehood were characterized by turmoil for Native Alaskans as they witnessed a dramatic shift in livelihood, land ownership, political power, and cultural domination. The traditional frontier and public domain of the land shifted toward multiple ownerships, and in the process many

[9] Alaska Natives Commission, *Final Report*, vol. 1, May 1994, preface by Robert Alberts, p. iii.

[10] Denise Morris, president, Alaska Native Justice Center, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Aug. 23, 2001, transcript, pp. 190–91 (hereafter cited as Aug. 23 transcript).

[11] Lawrence Lee Oldaker, "From Blackstone to America's Last Frontier: Education in Alaska Amid Rural-Urban Tensions," n.d., submitted by Shirley J. Holloway, commissioner, Alaska Department of Education and Early Development, to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 24, 2001 (hereafter cited as Oldaker, "From Blackstone to America's Last Frontier").

[12] Bryan Cooper, *Alaska: The Last Frontier* (New York: William Morrow & Co., 1973), p. 23.

[13] Janie Leask and Rick Mystrom, *Urban Rural Unity Study*, Commonwealth North, September 2000, p. 4 (hereafter cited as Commonwealth North, *Urban Rural Unity Study*).

[14] Steve Douglas, "The Alaska Pipeline," March 2000, <http://www.miavx1.muohio.edu/~kaufmadg/alaska.html>.

were left struggling to determine their place. According to one historical account: "Once all groups—Native people, developers, and conservationists—had felt, rightly or wrongly, that all of Alaska was open to them. Now limits had been imposed on all."[15]

A major catalyst for change in land ownership was the discovery of oil in Prudhoe Bay. In order for oil companies to begin development, the state needed to be able to assure clear title to the land. The resulting dispute over land rights was settled with the passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971.[16] Alaska Natives were given title to 44 million acres of land and were paid $962 million in exchange for the forfeiture of their aboriginal land claims. They benefited from the settlement, emerging with ownership of much of the state's inhabitable land (rich in resources), with money, and with regional and statewide corporate structures through which they could exercise political and economic power.[17] The settlement created 13 regional, 4 urban, and more than 200 village Native corporations.

Rural Alaska had gained power in the state legislature, but this power was short lived. In the early 1970s, a series of federal and state judicial decisions required that the state legislature be reapportioned based on population, resulting in the loss of significant political power for the rural, mostly Native, areas of the state.[18] Today there are 226 recognized villages that have a unique government-to-government relationship with the United States, but as the following discussion will illustrate, these governments often have recognition in name only and not any true political or legal power.

POPULATION TRENDS

The state of Alaska is by far the largest in the United States, boasting an area of 586,412 square miles; the state is encompassed by 6,640 miles of coastline (longer than all of the rest of the United States) and nearly 33,900 miles of shoreline, including all of its islands.[19] It is one-fifth the size of the entire lower 48 states and larger than the three largest continental states combined. Its richness in natural resources, including gold, zinc, and oil; abundant wildlife; and vast lands have made the state attractive to outsiders.

The term "Alaska Native" refers to Alaska's original inhabitants. For the purpose of this discussion, the terms "Alaska Native" and "Native Alaskan" are used interchangeably to denote individuals of indigenous descent and those who identify themselves as either whole or part Native. Alaska "native" (no capitalization) refers to those born in the state who are not descendants of original inhabitants. Alaskans, generally, refers to all inhabitants of the state, whether Native or not.

The many individual Native populations vary greatly, but can be roughly divided into four groups: Inupiat and Yupik Eskimos, who live primarily along the northern and western coasts and to some extent inland; Aleuts, who inhabit the Aleutian Islands; coastal Indians, primarily Tlingits and Haidas; and the Athapascan Indians in the interior portions of the state.[20] Within those broad categories are many cultural and linguistic groups. Native communities range from the populous and heterogeneous in Anchorage, with rep-

---

[15] Commonwealth North, *Urban Rural Unity Study*, p. 5.

[16] Alaska Native Claims Settlement Act, Pub. L. No. 92-203, 85 Stat. 688 (codified as amended 43 U.S.C. §§ 1601–1629e (1994)).

[17] Commonwealth North, *Urban Rural Unity Study*, p. 5.

[18] Ibid.

[19] Fairbanks North Star Borough Public Library, FAQAlaska Project, "Frequently Asked Questions About Alaska," <http://sled.alaska.edu/akfaq/akgeogr.html>.

[20] Mary Clay Berry, *The Alaska Pipeline: The Politics of Oil and Native Land Clai*ms (Bloomington, IN: Indiana University Press, 1975), p. 12.

resentatives from every Native Alaskan cultural group, to the small and culturally homogenous communities of rural Alaska.[21]

Alaska's population has grown considerably over the past decade, from 550,000 in 1990 to nearly 627,000, according to 2000 Census data.[22] Of the state's inhabitants, 98,000 claim themselves as Alaska Native and another 21,000 at least part Alaska Native. Thus, nearly 19 percent of the state's population is in some part Native Alaskan, making this the largest minority group in the state. Those who identify themselves as whole or part African American make up another 4.3 percent of the state's population; whole or part Asian Americans compose 5.2 percent; and Hispanics (of any race) make up 4.1 percent. Minorities make up more than 30 percent of the state's population.[23]

TABLE 1

2000 Population of the State of Alaska and the Municipality of Anchorage

	STATE OF ALASKA		ANCHORAGE	
Race or Ethnicity*	**Number**	**Percent**	**Number**	**Percent**
White	463,999	67.5	200,926	77.2
Native Alaskan/American Indian	119,241	19.0	26,995	10.4
Asian American	32,686	5.2	18,448	7.1
Black or African American	27,149	4.3	18,632	7.2
Hispanic (of any race)	25,852	4.1	14,799	5.7
Other	20,666	3.3	12,143	4.7
Total population	626,932		260,283	

* Includes individuals who identify themselves as whole or a part of any of these racial/ethnic categories; the totals here add up to more than the total population and more than 100 percent because individuals may report more than one race.

SOURCE: U.S. Department of Commerce, Bureau of the Census, "Profiles of General Demographic Characteristics, 2000," May 2001.

More than 40 percent of Alaska's population lives within the municipality of Anchorage. The city's total population is approximately 260,000 people—72 percent of whom are nonminorities. Alaska Natives (including those who identify themselves as part Native) make up only 10.4 percent of the city's population, as compared with the entire state in which they compose nearly twice that.[24] The reverse is true for non-Native minorities: African Americans, Asian Americans, and Hispanics each make up a larger percentage of the Anchorage population than they do in the state as a whole. This suggests that although there are fewer minorities (percentage-wise) residing in Anchorage than the state as a whole, this is where higher concentrations of non-Native minorities live. Conversely, rural communities are largely composed of Native Alaskans. This geographic segregation, as this report will illustrate, has created a multidimensional division within the state—one at the same time based on race, culture, and location.

[21] The Economics Resource Group and the Institute of Social and Economic Research, University of Alaska at Anchorage, *Achieving Alaska Native Self-Governance*, Final Report, Sept. 8, 1998, p. B-3.

[22] U.S. Department of Commerce, U.S. Census Bureau, "Profiles of General Demographic Characteristics: 2000 Census of Population and Housing, Alaska," May 2001 (hereafter cited as U.S. Census Bureau, "Alaska 2000 Census").

[23] U.S. Census Bureau, "Alaska 2000 Census," table DP-1, p. 1. Note that, for the first time in 2000, the Census Bureau allowed people to identify with more than one racial or ethnic category. Thus, reporting and comparing demographics over time have become more complex.

[24] U.S. Census Bureau, "Alaska 2000 Census," table DP-1, p. 4.

RACISM IN ALASKA TODAY

> *Alaska Natives should be accorded respect for maintaining the degree of cultural integrity that we have. Our collective responses to oppression and injustice display resiliency and strength that still flows down to us from our ancestors.*[25]

Participants in the SAC forums, both elected officials and members of the public, were quick to acknowledge that racism indeed exists in Alaska, although there was disagreement on the extent of the problem and what the state is doing to remedy it. As the following excerpts from the forums indicate, the pain of racism is very real. In the words of one Alaskan: "It is hard to bring it down into a few words, and it is very hard to talk about racism with no passion when you have lived a lifetime of it. And this is my life experience."[26]

Another commented on the pervasiveness of the racism:

> Apartheid is a very real thing here in Alaska. It runs deep, it's covert, it's different than outright killing, but the net effects are the same. You manage to separate a people from their lands and from their resources. You manage to take away the customary rights of people that are very ancient rights.[27]

Others commented on the broader effects of racism on the community:

> Discrimination is a learned behavior. Discrimination is still rampant and pervasive throughout Alaska today. Racism began when the exotics came to remove us, Alaska Natives, from our homeland. Along with the discrimination, prejudice, and racism comes the negative issues such as unemployment and lack of success for everyone who attempts to hold on to their Nativeness or spirituality.[28]

Other panelists noted that racism results in the failure to acknowledge distinct cultures, which in turn leads to cultural and social isolation. One state senator noted:

> Indifference to a basic fiber of Alaska Native people, indifference to the survival of the communities and culture result in a feeling of powerlessness and hopelessness. When communities fall under this gray cloud, there are a multitude of side effects: education deficits, psychological depression, high rates of suicide, substance abuse, violent crimes, and finally incarceration.[29]

Likewise, a community activist noted that outward celebration of Native culture is virtually absent in Alaska. Recounting observations made during a recent visit to Hawaii, she described welcoming remarks expressed in the Native language by the flight attendant to passengers upon arrival. The integration of culture into everyday life left her with a positive impression. She went on to state:

> [I]t was wonderful. And I guess it really hit me in such a way that I turned to a friend of mine . . . and I said, you know, it's really sad but I don't think we'll ever see that in our state.[30]

According to the director of the Anchorage Equal Rights Commission, in Alaska there are two types of racism, one against minorities as a whole, and one against Native Alaskans in particular. He likened the

---

[25] Alaska Native Justice Center, "Administration of Justice Issues Faced by Alaska Natives," paper presented to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 23, 2001, p. 2 (hereafter cited as ANJC, "Administration of Justice Issues").

[26] Diane E. Benson, Alaska resident, statement, Aug. 24 transcript, p. 586.

[27] Gary Charles Patten, Copper River Tlingit, statement, Aug. 23 transcript, pp. 236–37.

[28] June Degnan, Unalakleet Yup'ik, Alaska resident, statement, Aug. 24 transcript, pp. 564–65.

[29] Georgianne Lincoln, senator, Alaska State Senate, statement, Aug. 23 transcript, p. 181.

[30] Janie Leask, manager of community relations, Alyeska Pipeline Service Company, statement, Aug. 23 transcript, p. 88.

situation for Native Alaskans to that of African Americans living in the South in the 1940s and '50s. He opined:

> There are problems of discrimination against minorities in the state, but I think there are systemic institutional racism problems against Alaska Natives that have occurred for a long time. . . . They're going to take a long time to deal with. I think that there needs to be political leadership and a political will as well as the resources to deal with those.[31]

Still others noted that the people of Alaska must educate themselves on the destructiveness of intolerance and racism:

> [I]t's our responsibility as people to believe that we are tolerant, that we believe that the individual is another human being in spite of their color or their race or their culture. And education not only in the classroom but in meeting places, in the cafes, in the restaurants, in the bars, even on the street, education is very critical.[32]

Although the SAC heard allegations of individual cases of racism and discrimination, many Alaska residents charged that the state itself has neglected its responsibility in the provision of services and finances for necessary programs. They argued that the state, through ill-conceived policies and unfair distribution of wealth, is culpable for the poor economic, social, and political conditions of its minority residents. Even state officials acknowledged failure on their part. The governor of Alaska stated:

> There is no excuse for us not to provide the essential services based on a lack of budget. We do have numerous resources that we can turn to. . . . There is plenty of wealth in this state to address those needs and so the responsibility lies clearly with the political leadership if it's not done, and if it's done in a proportionality that is also fair.[33]

In its final report, the Governor's Commission on Tolerance wrote:

> Alaskans describe instances of prejudice and intolerance that prevented them from working, or from accessing critical state services. Tolerance begins at the top. We cannot expect Alaskans to embrace our diversity if our leaders and our public agencies do not. There is no room for intolerance in our public agencies.[34]

Another state lawmaker noted that the politics of funding often get in the way of legislation. She stated: "There's a lot of discrimination that goes on within the legislature because you can't get the funding for it, or you can't get some of the legislation through that would correct some of these inequities."[35] She added that "the state has a constitutional responsibility to provide the same or equal treatment to all people in Alaska, and we haven't been doing that."[36]

The mayor of Anchorage similarly acknowledged the responsibility of elected officials to combat racism and intolerance. He stated:

> [A]s long as it remains human nature for people to be uneasy about someone who is different than they are, who has a different religion or a different language or eats different foods or has different customs, we expect there's going to be barriers to overcome. And that's why it's incumbent on those of us who hold leadership positions to help open the doors and create mutual respect and dignity for each other.[37]

---

[31] David Levy, executive director, Anchorage Equal Rights Commission, statement, Aug. 24 transcript, p. 513.

[32] Arthur Lake, president, Association of Village Council Presidents, statement, Aug. 23 transcript, p. 112.

[33] Tony Knowles, governor of Alaska, statement, Aug. 23 transcript, p. 73.

[34] Governor's Commission on Tolerance, *Final Report*, Dec. 6, 2001, p. 17.

[35] Lincoln statement, Aug. 23 transcript, p. 229.

[36] Ibid., p. 226.

[37] George Wuerch, mayor of Anchorage, statement, Aug. 24 transcript, p. 319.

A legal advocate said division within the Alaska legislature has often prevented reconciliation of inequities and intolerance. She used state condemnation of the paintball attacks as an example:

> Any time action is taken to move toward progress, there is a backlash to that. And we saw an embarrassing situation in our state's senate this spring wrangling over what kind of discrimination should be okay and what kind of discrimination is quote, unquote unlawful, in the adoption of a very simple resolution condemning the paintball attacks. It was very embarrassing to watch, frankly, allegations of reverse discrimination by Alaska Natives against white people, and that was used as an example to support the term "unlawful." . . . [T]he discussion shows the lack of sensitivity to these issues by people who are proposing to condemn the paintball attacks.[38]

The chairman of the Alaska Native Justice Center suggested that the state must reflect on its own rules and laws that may be the root cause of discrimination. He stated that if there were a list of culprits, the state of Alaska should be included in that list. He argued:

> I think the state needs to take note of its laws and rules. It needs to take stock of what it's doing and what it intends to do with all its citizens and make some changes. . . . [I]f people in Alaska see the state of Alaska discriminating, [then they will conclude] it's okay to discriminate.[39]

Similarly, another panelist noted that "there are numerous proposed legislation that unfairly target rural Alaska, which to me equates to Native Alaskans."[40]

Another area of state neglect is evident in negligence of non-English-speaking communities. Both immigrants to Alaska and rural Native Alaskans face language barriers that compound the difficulties of daily interaction. According to some community leaders, the state of Alaska has been negligent in its response to these residents' needs. Little, if anything, is being done by state officials to implement programs that will serve language minorities in critical areas of health care, education, employment, law enforcement, and the court system.[41] For example, there are no interpreters for immigrants who are arrested; such persons are often placed in state custody without the ability to communicate. There is also no certification process for interpreters in Alaska.[42]

The paintball attacks brought national attention to the prevalence of racism in Alaska and, to some degree, motivated political action. For victims who have lived with discrimination, the incident holds a promise that their experiences will no longer go unrecognized. One panelist stated:

> We're here because we have had our heads buried in the sand. We didn't want to hear the facts and we wanted to believe that racism does not exist. Well, the paintball incident brought out what we've been saying for years. The public was aware of the racism in the city and the state, and when we tried to voice that, no one wanted to hear it. . . . And the paintball shooting was one of the greatest things that ever happened really in the state because it brought out what other minority groups have been saying and it became a reality.[43]

Perhaps one panelist, a state lawmaker, summed it up best when she reflected on the nexus between individual culpability, as in the case of the paintball incident perpetrators, and state obligation. When injustice is obvious, it is easy to condemn, but Alaskans, and state officials in particular, must rise to the challenge

---

[38] Jennifer Rudlinger, attorney, Alaska Civil Liberties Union, statement, Aug. 23 transcript, pp. 96–97.

[39] Roy Hundorf, chairman, Alaska Native Justice Center, statement, Aug. 23 transcript, p. 202.

[40] Lincoln statement, Aug. 23 transcript, p. 220.

[41] Maria Rosas, consultant and retiree from the Alaska Department of Corrections, statement, Aug. 23 transcript, p. 41.

[42] Ibid., p. 43.

[43] Reverend William Greene, Eagle River Missionary Baptist Church, statement, Aug. 23 transcript, p. 102.

when more subtle injustices threaten the well-being of those who lack the tools to fight back. In her words:

> The highly publicized paintball attacks carried out by three young men targeting Alaska Natives this past winter spurred a great deal of discussion, self-reflection, and problem solving. Such inhumane crimes motivated by prejudice are easier to respond to than the day-to-day, year-to-year injustices and discrimination Alaska Natives and other minorities face. It is easier to galvanize public support to get to the bottom of the crime and address such an obvious form of discrimination.
>
> But how have we responded to the lack of economic development in rural Alaska coupled by the constant threat to Alaska Natives' subsistence way of life? How have we responded to the low employment rates of Alaska Natives in state government? How have we responded to the high unemployment rates for Alaska Natives throughout the state? How have we responded when confronted with the reality of inadequate school facilities in rural Alaska and the low test scores on the high school graduation exams by Alaska Natives? How have we responded to the high alcohol and suicide rates among Alaska Natives? How have we responded to the lack of law enforcement protection in village Alaska? How have all of these issues contributed to high incarceration rates of Alaska Natives and problems in the administration of justice? How have we tried to resolve these issues and halt the disturbing downward spiral into which many Alaska Native individuals and communities have found themselves?[44]

ALASKA'S UNIQUE CIVIL RIGHTS ISSUES

> *One has to wonder how people can suffer as much as ours and emerge with a desire to preserve and sustain life. Our resolve to preserve the spirit . . . of who we are as a people allows us to flex instead of breaking. This resolve is, of course, strength needed to carry us through a common destiny through the vision of our children*.[45]

The state of Alaska, with its diverse population and vast geographic area, faces many unique challenges, several of which have civil rights implications. While the state's history is a short one, the history of its indigenous people dates back thousands of years, creating a divide between culture, tradition, and "progress," and resulting in a racially charged environment.

Among the issues that have contributed to the tension between racial and ethnic groups in Alaska are the division between urban and rural needs and how those needs are met; access to natural resources to enable a subsistence living; and local control of resources through self-governance. As will be discussed, the cultural, political, and economic implications of each of these issues have an effect on the livelihood of Native Alaskans, more so than any other group residing in the state, and serve as reminders of the institutional intolerance that plagues Alaska.

The Urban/Rural Divide

Compared with other states, Alaska is so vast in its land base and so relatively small in population that unique issues arise. For example, an urban/rural divide exists, with residents of remote rural villages, who are predominantly Native Alaskans, often receiving inferior state and federal services, if any at all. The geographic isolation is compounded by a lack of infrastructure in rural communities, including adequate road systems. Many rural villages are, in fact, entirely off road and can only be reached by plane, boat, or snowmobile. The resulting divide between on-road and off-road communities can be seen in education, employment, and law enforcement and has a profound effect on their economic, social, and cultural conditions.

The disparities found in rural Alaska necessarily translate to disparities for Native Alaskans since they make up such a large proportion of the state's rural residents. According to the governor of Alaska, in

---

[44] Lincoln statement, Aug. 23 transcript, pp. 174–75.

[45] Shirley Tuzroyluke, education information manager, CIRI, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Oct. 25, 2001, transcript, p. 100 (hereafter cited as Oct. 25 transcript).

contrast to the rest of the country where minority populations are often concentrated in inner cities, in Alaska a significant majority of the state's minorities reside in rural areas.[46] It is in the rural communities that needs go unmet, projects unfunded, and services are not equitably delivered.

The Alaska Federation of Natives has similarly identified the urban/rural divide as one of the most critical influences affecting the socioeconomic and political status of Alaska Natives today. In a briefing paper submitted to the SAC, the federation stated:

> The Urban/Rural divide is rooted in the unequal treatment accorded Native villages in terms of education, law enforcement, clean water and sanitation, and the double-digit unemployment in rural communities. It is also reflected in the legislature's systematic effort to undermine federal protections for hunting and fishing rights of rural Alaskans and its refusal to allow Alaskans to vote on a constitutional amendment on subsistence. It ignores the huge subsidies the urban areas enjoy as a result of the wealth of resources located in rural Alaska.[47]

Although state and local officials who spoke before the SAC highlighted some of the social and economic programs designed to transcend this divide and benefit Native Alaskans, representatives of community groups and the public testified that the state has made no effort to significantly improve the condition of its Native peoples. Allegations were made that the state has, in fact, acted in the interest of the urban majority at the expense of rural Natives. In the words of one panelist:

> In light of such wide disparities between the well-being of Natives and the well-being of other Alaskans, one might expect the state of Alaska to be sufficiently concerned to use some of its governmental power and oil wealth to improve the situation; on the contrary. The past decade has seen state policy, controlled by the urban non-Native majority, turn against Natives with a vengeance. Under a banner of fiscal austerity, the state is making political war on the poorest and most vulnerable of its citizens defined by race.[48]

Several facts were presented in support of allegations of state neglect: (1) state aid to local governments has been reduced by 60 percent in the past eight years, disabling many Native villages in their governmental operations; (2) the state uses the provision of federal funds as an excuse to reduce its expenditures in villages and fails to develop rural economies that could support local government; and (3) the state minimizes the severity of unemployment in villages by counting only those who actively look for work and not those who have "long since given up" because there is no work available.[49] According to the Alaska Federation of Natives:

> The state government, in particular the state legislature, has created an atmosphere of intolerance in the state by their actions, by their decisions on the appropriations process, by their withholding of resources to critical needs in the rural areas, by their lack of funding, where courts have even determined that people's civil rights have been violated.[50]

One state senator testified that rural residents of Alaska often perceive the government as cold, distant, and uninformed about life at the local level. She stated:

> On many levels, the existence of this [urban/rural] divide is a result of indifference, and the consequences of this unresponsiveness, disinterest, and indifference to this divide has indeed resulted in the punishment of all Alaska Natives, including those who reside in urban Alaska.[51]

---

[46] Knowles statement, Aug. 23 transcript, p. 61.

[47] AFN, "Briefing on Recent Hate Crimes," pp. 16–17.

[48] Bonnie Jo Savland, statewide director, Alaska Native Coalition for Employment Training, statement, Oct. 25 transcript, p. 131.

[49] Ibid., p. 132.

[50] Julie Kitka, president, Alaska Federation of Natives, statement, Aug. 23 transcript, pp. 27–28.

[51] Lincoln statement, Aug. 23 transcript, p. 178.

Furthermore, it is the opinion of many who testified that the state has failed to support solutions or fund programs that could heal the urban/rural divide and promote local empowerment.[52]

The divide in Alaska is both geographical and cultural, and it has implications for education, employment, and law enforcement. According to the governor, the two most important services that the state can deliver are education and public safety. Unfortunately, these are also areas in which there is a widening gap between rural and urban Alaska.[53] Each of these issues will be addressed in the discussions that follow.

Subsistence

> *Without subsistence, Alaska Native peoples would die spiritually, die emotionally, and eventually die physically. There is no issue more important to achieving racial harmony in this state than protecting the subsistence way of life for rural Alaskans.*[54]
>
> —Governor Tony Knowles

For 10,000 years, Alaska Native peoples have relied on hunting, fishing, and gathering to feed, clothe, and house themselves.[55] Use of natural resources, such as harvesting fish and wildlife, continues to be an integral part of their existence and the survival of their communities. On another level, subsistence also provides a cultural, spiritual, and social connection, as well as a sense of identity for many rural Alaskans.[56] Despite this, the state's legislative majority has failed to acknowledge the importance of subsistence and has enacted policies that have had the end effect of forcing Alaska Natives to assimilate, thereby losing their culture and traditional values.[57]

As mentioned above, in settling the land ownership claims of Alaska Natives, the passage of Alaska Native Claims Settlement Act (ANCSA) in 1971 also required the forfeiture of aboriginal land claims, extinguishing hunting and fishing rights. However, at that time Congress also directed the Secretary of the Interior to protect the subsistence needs of Native peoples. This led to the 1980 passage of the Alaska National Interest Lands Conservation Act (ANILCA), under which a preference was granted to rural Alaska residents for subsistence uses of wildlife resources.[58] (Note that the language of the act was race neutral, using the term "rural Alaskans" as opposed to "Native Alaskans.") As long as the state adhered to the subsistence priority, it would be permitted to manage fish and game on all federal lands in Alaska. If the state did not fulfill this obligation, the federal government would assume management of all federal lands.[59] Two years before ANILCA, the state had adopted its own general subsistence preference legislation, but by 1986 to come into compliance with the new law, the state amended its statute to limit the preference to rural residents. The Alaska Supreme Court later ruled that this amendment was in violation of the state constitution and required that access be given to all Alaskans.[60]

---

[52] Ibid.

[53] Tony Knowles, governor of Alaska, written submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 23, 2001 (hereafter cited as Knowles written submission).

[54] Knowles written submission, p. 3. Governor Knowles attributes the first statement to Father Michael Oleska, arch-priest of the Russian Orthodox Church.

[55] AFN, "Briefing on Recent Hate Crimes," p. 15.

[56] Brian Rogers, facilitator, Governor's Subsistence Leadership Summit, letter to Tony Knowles, governor of Alaska, Aug. 17, 2001 (hereafter cited as Rogers, letter to the governor), included in written submission of Janie Leask, manager of community relations, Alyeska Pipeline Service Company, to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 23, 2001.

[57] AFN, "Briefing on Recent Hate Crimes," p. 16.

[58] Alaska National Interest Land Conservation Act, 43 U.S.C. § 1636 (1994).

[59] Commonwealth North, *Urban Rural Unity Study*, p. 7.

[60] McDowell v. Alaska, 785 P.2d 1 (1989).

The U.S. Court of Appeals, however, ruled contrary to the state supreme court, finding that the state was not in compliance with ANILCA, and ordered a federal takeover of subsistence fisheries in waters in and near Alaska's federal lands, an area constituting nearly two-thirds of the state. In 1990 federal agencies took over management of game on federal lands and in 1999 took over control of fish in federal waters.[61]

The governor of Alaska in October 2001 decided not to appeal this decision to the U.S. Supreme Court. Some see the acceptance of the appeals court decision as a first step toward gaining statewide acceptance of subsistence, but the debate remains politically and economically charged, further defining the division between urban and rural Alaska. According to subsistence supporters, the issue can be resolved in two ways: by amending the state constitution or asking Congress to preempt state law by granting a rural or Native priority.[62] However, efforts to place an amendment to the state constitution on a ballot have been blocked in the state legislature, even though there is wide public support for such an amendment.

Those opposed to subsistence argue that the allowance of "special" fishing and hunting rights for rural and Native Alaskans amounts to unfair special treatment, ignoring the fact that subsistence is a cultural way of life and a critical form of livelihood. According to an attorney for the Alaska Civil Liberties Union, the perception that the issue of subsistence is just about food stems from the refusal to validate the cultural, spiritual, and religious significance of subsistence to the Alaska Native way of life.[63]

Two legislative panelists who spoke before the SAC presented different views on the subsistence issue, although they were in agreement that a fundamental goal of state lawmakers is providing resources to those who need it, when they need it.[64] According to the president of the state senate, the Alaska Supreme Court did not attack subsistence, but rather stated that it deserves close scrutiny in its application to avoid discrimination. The notion of providing a rural preference was too vague.[65] He added that subsistence is a basic human right, but that only allowing its use for rural residents is discriminatory:

> [W]hen you discriminate in the application of that basic human right and you say that a rural resident who has arrived last year from outside and lives in a rural community 500 miles away has a priority over an Eklutna Native who has been surrounded by an urban community who can't now drive his old pickup to the Denali highway and hunt under the same priority as the person who just got here, there's a problem with that.[66]

He believes the solution is going to require changes in both federal and state law. But others argue that the right to subsistence extends beyond access to food, to a cultural connection to the land. Often subsistence is described in terms of food because "that is the easiest way to quantify it without really understanding it."[67]

Alaska Native groups are not only frustrated by the reluctance of *all* Alaskans to embrace the issue of subsistence, but also the political process by which the measure is being addressed. According to one activist, the issue has festered for years and remained unresolved with Alaska Natives "relegated to the sidelines and unimportant in the political decision making."[68] The conflict persists "and the stalemate over

---

[61] Commonwealth North, *Urban Rural Unity Study*, p. 7.

[62] Zaz Hollander and Elizabeth Manning, "Subsistence Rally Cry," *The Anchorage Daily News*, Aug, 22, 2001, p. A1; Mike Chambers, "Two Call for Needs-Based Subsistence Access System," *The Anchorage Daily News*, Aug. 22, 2001, p. B1.

[63] Rudlinger statement, Aug. 23 transcript, p. 94.

[64] *See* Brian Porter, speaker, Alaska State House of Representatives, statement, Aug. 24 transcript, pp. 359–63; Rick Halford, president, Alaska State Senate, statement, Aug. 24 transcript, pp. 359–63.

[65] Halford statement, Aug. 24 transcript, p. 360.

[66] Ibid., pp. 360–61.

[67] Ibid., p. 363.

[68] Kitka statement, Aug. 23 transcript, p. 23.

subsistence has resulted in what is perceived by many in our Native community as a lack of respect as it results in the perception of racial bias."[69]

Others believe that, beyond fostering racial and cultural misunderstandings, the lack of action in the state legislature to resolve the subsistence issue has fueled Alaska's urban/rural divide.[70] One community activist stated that the state needs to come together to push for resolution:

> If the subsistence issues and the divide between urban and rural Alaska is to be healed, urban residents and businesses need to understand they play a key role. . . . [T]hey can no longer sit on the sidelines and expect Alaska Natives and their organizations to do all the work.[71]

The cries of Native groups and community activists appear to be having an effect. The debate over subsistence prompted the governor of Alaska to call for a Subsistence Leadership Summit in August 2001. The goals of the summit were to protect subsistence, develop a plan to regain state management of Alaska's fish and game, and reconcile the divide between Alaskans.[72] A spokesperson for the summit, in a letter to the governor, emphasized the importance of subsistence:

> Although customs, traditions, and beliefs vary, these Alaskans share ideals of respect for nature, the importance of using resources wisely, and the value and dignity of a way of life in which they use Alaska's fish and wildlife for a substantial portion of their sustenance. This way of life is recognized as "subsistence."[73]

Among other findings, the Governor's Subsistence Leadership Summit found that resolution of the subsistence impasse is critical to bridging the gap between urban and rural Alaska and unifying the management of fish and wildlife resources. The summit produced the following recommendations:

- The state legislature should adopt a constitutional amendment guaranteeing a rural subsistence priority for use of fish and game resources. The amendment should be placed on a ballot in 2002.
- The state legislature should adopt a law that provides for co-management of fish and game resources that includes participation by Alaska Natives and rural residents. Co-management options include agreements between local entities, Native organizations, and the state and federal governments.
- There should be a continuing policy dialogue among Alaskans to address subsistence and resource management issues.[74]

In a statement before the SAC, the governor confirmed that he and his cabinet recognize the importance of subsistence to Alaska's Native and rural people and have fought for a state constitutional amendment allowing a subsistence priority.[75]

Indigenous Rights and Self-Governance

The issue of indigenous rights raises some difficult and politically challenging questions. As has been demonstrated by the plight of American Indians and Native Hawaiians, the sacrifice of fundamental rights for people whose heritage and culture are tied to historical existence is tantamount to cultural annihilation.

---

[69] Wuerch statement, Aug. 24 transcript, p. 315.

[70] Leask statement, Aug. 23 transcript, pp. 86–87.

[71] Ibid., p. 87.

[72] Rogers, letter to the governor.

[73] Ibid.

[74] Ibid.

[75] Knowles written submission.

The convergence of civil rights in the conventional sense and indigenous people's rights presents difficult social and legal challenges, as is clearly demonstrated by the subsistence issue, but it also presents a challenge in terms of political power and governance.

According to testimony from the president of the Alaska Federation of Natives, the right to self-determination for indigenous people is the driving force behind the problems in Alaska. Native Alaskans aspire to control the decision making that directly affects their lives, which will empower them to change factors that account for their dismal social condition.[76] Self-governance is more of an issue for rural communities than urban ones because municipalities have established relationships with the state and their own tax bases. Tribal governments, on the other hand, are a reality in rural Alaska, but there is a lack of understanding of the legal status of tribes among the non-Native population.[77]

The issues of self-governance and local control pose complex questions because they rely on the convergence of state and federal laws, which are not always complementary. It is important to note, however, that a tribe's status as a sovereign nation depends on the actions of the federal government, independent of any state action. Today there are 226 federally recognized villages in Alaska.

The U.S. Constitution recognizes "Indians" as having enough sovereignty to warrant government-to-government interaction for commerce.[78] Further sovereignty hinges on whether or not a Native community is defined as a tribe. Accordingly, established tribes possess power to choose a form of government, administer justice, determine tribal membership, exclude people from tribal land, and charter business organizations.[79]

So how do Native Alaskans fit into the federal structure as subjects of Alaska state laws? Alaska's constitution was designed to provide for maximum local self-government with a minimum number of government units.[80] The state constitution provides for flexibility in the existence and structure of local governments, dividing the state into both organized and unorganized boroughs.[81] Local authorities have the option to be within nine governmental structures to perform their functions as cities, boroughs, or municipalities. This flexibility has served most of the state's urban areas and some rural areas well, but the constitution did not take into account traditional tribal governance, and rural areas were largely ignored as the borough system was implemented.[82]

Moreover, there are limitations to the extent to which tribal governments can exert control. As established upon statehood, the federal government mandates state jurisdiction over criminal and civil violations of the law on Native Alaskan land. Thus, tribal governments do not have the authority to administer their own criminal justice systems. Native Alaskans' right to sovereignty has suffered a further legal dismantling since the Supreme Court ruled in 1998 that an Alaskan village was not part of "Indian country" and, therefore, could not levy taxes to a private firm conducting business on its land.[83] The Court's decision did not, however, affect the federally recognized status of Alaska tribes. While some basic sovereignty

---

[76] Kitka statement, Aug. 23 transcript, p. 21.

[77] Commonwealth North, *Urban Rural Unity Study*, p. 10.

[78] U.S. CONST. art. I, § 8, cl. 3.

[79] Oldaker, "From Blackstone to America's Last Frontier," p. 7.

[80] Alaska Commission on Rural Governance and Empowerment, *Final Report to the Governor*, June 1999, p. 24 (hereafter cited as ACRGE, *Final Report to the Governor*).

[81] Oldaker, "From Blackstone to America's Last Frontier," p. 6 (*citing* ALASKA CONST. art. 3, § 3).

[82] ACRGE, *Final Report to the Governor*, p. 24.

[83] Alaska v. Native Village of Venetie Tribal Gov't, 522 U.S. 520 (1998).

rights of Native Alaskans have slowly eroded, other sovereignty questions remain unsettled, including those involving subsistence, child welfare and other domestic matters, and control over education.[84]

In many rural communities, tribes are the only form of government and the only source of needed services. As such, rural Alaskans often have disdain for the state, which they believe has ignored their needs and interests, and perceive it as "cold, distant, hidden, uninformed about life at the local level."[85] Rural residents also perceive state funding cutbacks as having an unfair impact on rural Alaska, and some question whether the state has met its constitutional responsibilities. According to the Alaska Commission on Rural Governance and Empowerment:

> Natives are loyal citizens of the United States. They abide by the federal and state constitutions, pay their taxes, serve on juries, vote in elections, and serve in defense of the nation and the state. As residents of Alaska, Natives are entitled to the same rights and services as other Alaskans, regardless of their special relationship with the federal government.[86]

The president of one Alaska village council who spoke before the SAC summed up the difficulties village governments face:

> It's been very difficult, very, very difficult, because the federal and state governments, of course, are entrenched in the way they govern. There's no recognition of ours because they don't know us. We've lived here for thousands of years and governed ourselves. And yet . . . we're recognized by the federal government but subjugated by their laws.[87]

Despite the difficulties cited here, according to some legal scholars, Alaska has been a leader in "trying to coordinate civic harmony" among the Native and non-Native populations.[88] To that end, in 1998 the state established the Commission on Rural Governance and Empowerment to assess the delivery of services to rural communities and make recommendations to enhance governance in rural Alaska.[89] The Governance Commission came up with several key findings in support of local governance. Among them are the following:

- There are a variety of local and regional institutions in Alaska that govern themselves and provide services, and although there are problems, there are also many successes.
- Some rural areas have effectively utilized municipal institutions for local governance.
- Cooperation is an important element for providing services and managing resources.
- The lack of recognized geographic delineation of tribal government jurisdiction complicates tribes' ability to fulfill needed government functions.
- Empowering local people and delivering services locally are a challenge for all Alaskans, not just governmental entities.
- Government works best when it empowers people to take control of their lives.[90]

The commission's final report led to the drafting of the Millennium Agreement between federally recognized tribes of Alaska and the state. The agreement acknowledges mutual sovereignty between the state and tribes and calls for improved communication between them to resolve conflicts. While the agreement

---

[84] Oldaker, "From Blackstone to America's Last Frontier," p. 8.

[85] ACRGE, *Final Report to the Governor*, p. 12.

[86] Ibid., pp. 13–14.

[87] Arthur Lake, president, Association of Village Council Presidents, statement, Aug. 23 transcript, p. 136.

[88] Oldaker, "From Blackstone to America's Last Frontier," p. 9.

[89] ACRGE, *Final Report to the Governor*, p. 8.

[90] Ibid., pp. 10–14.

is voluntary in nature and not legally binding, it has at least initiated a forum to promote discussion between local and state governments.

The fact remains that there are communities in Alaska that have prospered through self-governance. These communities should serve as models and be encouraged and empowered to continue self-governance and to share their strategies with other local governments.

CHAPTER 2

Education

> *Nothing, and I mean nothing, is more important for the families in our state and for the future of Alaska than education. The hopes and dreams we have for our children, and many of us for our grandchildren and our communities, begin with a quality education.*[1]

Since the first wave of non-Native settlement in Alaska, the state's educational system has undergone a series of transformations, from the early religious catechism schools established by Russian explorers to the creation of a "western" public school system in the early years of U.S. occupation. In each education system, the population that was most neglected was that of the Alaska Native. Before statehood, public school participation was limited to white children and children of mixed blood who led a "civilized life."[2]

It was not until 1962, three years after statehood, that a memorandum of agreement was signed between Alaska and the federal Bureau of Indian Affairs recognizing public education for all residents as a state responsibility. The state and federal governments worked together, with local involvement, to develop a plan to transfer schools to state control.[3] In the 1980s, the federal government relinquished all operational responsibilities, resulting in an educational system dependent on the state's economy and political will, which often have been unfriendly to rural Native interests. According to one scholar:

> No other education policy issue raises such concern and threatens to divide Alaskans as much as delivering education programs to Alaska Native students. This political lightening rod is intertwined with issues of Native cultural survival, Native self-worth, scars left from insensitive practices by non-Natives trying to "educate" Native Alaskans, the many arguments about the quality of education Native students receive, their low academic performance, the extremely high cost of service delivery, and the state's return on the twenty year investment in locally delivered rural high school programs.[4]

Testimony of educators, parents, and government officials alike confirms that the education system in Alaska today remains plagued with inequities, with Native students falling far behind other students in both opportunities and outcomes. According to one state senator, the problems of discriminatory practices in education are long and complex, and there are no easy explanations for how or why the condition has deteriorated. She noted that the dismal educational situation is due in great part to "misconceptions, old ways of thinking, lack of political will, and a poorly informed and sometimes apathetic public."[5]

---

[1] Shirley J. Holloway, commissioner, Alaska Department of Education and Early Development, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Aug. 24, 2001, transcript, p. 425 (hereafter cited as Aug. 24 transcript).

[2] Lawrence Lee Oldaker, "From Blackstone to America's Last Frontier: Education in Alaska Amid Rural-Urban Tensions," n.d., submitted by Shirley J. Holloway, commissioner, Alaska Department of Education and Early Development, to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 24, 2001, pp. 1–2 (hereafter cited as Oldaker, "From Blackstone to America's Last Frontier").

[3] Oldaker, "From Blackstone to America's Last Frontier," p. 2.

[4] Ibid., p. 3.

[5] Bettye Davis, senator, Alaska State Senate, written submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 23, 2001 (hereafter cited as Davis written submission).

Others recognize that the state's educational system has deeply embedded problems that need to be resolved before any real change can be accomplished. According to one forum participant:

> [T]here's a big problem here in Alaska of what I term "educational racism" in schools . . . and it really needs to be addressed in order for our children ever to hope to someday get the education that they're going to need to get the type of jobs or to be able to get into a position where they someday can be a policymaker or a lawmaker. It starts with education. It's just not happening.[6]

DISPARITIES IN ACHIEVEMENT

The effects of the disparities in resources and educational opportunities can be most clearly seen in differing levels of student performance across the state, and across racial and ethnic groups. As the following will illustrate, not only do minority students in Alaska score lower on standardized tests, they receive lower grades and have lower overall levels of academic achievement.

Because of the dire need for education reform, the state of Alaska recently instituted a Quality Schools Initiative to promote high academic standards for all students and quality assessments aligned to those standards; high quality school standards; quality educators; and networking and partnerships between family, community, business, and the university.[7] Under this initiative, the state of Alaska instituted the Alaska High School Graduation Qualifying Examination (HSGQE), which is in the trial stage and will take effect in 2004, and the Alaska Benchmark Examination, which is given in grades 3, 6, and 8. The high school qualifying exam includes sections on reading, writing, and math. Students must demonstrate proficiency in each subject to receive a high school diploma.

The gradation and benchmark testing is intended to hold teachers and administrators accountable for ensuring that all students learn basic skills so that they are not disadvantaged when they enter the work force. According to the state commissioner of education, it is "our responsibility, our obligation, and our moral duty to make sure that we don't allow children to leave the public school system who cannot read, write, and compute."[8] Thus, the state is trying to align its curriculum to make sure teachers are teaching to the standards, while at the same time being cognizant of the diversity within the district.[9]

Prior to implementation, there was significant debate over the utility of graduation qualifying exams, with opponents arguing that statewide standards are unfair to students who are in less rigorous programs (such as those in poor urban schools and rural communities), as well as students who have learning disabilities or different learning styles. State lawmakers contend that the state has appropriately addressed this problem by allowing students in special education classes alternatives to passing the exam to be eligible for graduation. In addition, because students were not prepared in time, the implementation date for the testing was postponed from 2002, as originally intended, to 2004.[10] In fact, before passage of the law requiring the HSGQE, even the state commissioner of education sought to postpone its implementation until a standards-based system was in place, beginning with the early years of education, so that students who are "passed along" are not penalized.[11]

---

[6] Gigi Pilcher, Ketchikan Indian Corporation, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Aug. 23, 2001, transcript, p. 256 (hereafter cited as Aug. 23 transcript).

[7] Holloway statement, Aug. 24 transcript, pp. 430–31.

[8] Ibid., p. 462.

[9] Carol Comeau, superintendent, Anchorage School District, statement, Aug. 24 transcript, p. 448.

[10] Bettye Davis, senator, Alaska State Senate, statement, Aug. 23 transcript, p. 129.

[11] Holloway statement, Aug. 24 transcript, p. 458.

A state lawmaker tried to allay concerns, stating that the intent of the exams is to benefit students, not disrupt their educational achievement. She added:

> [W]e have agreed that we will not put the responsibility on the children. We want to make sure that our curriculum is aligned to the test, that teachers are not teaching to the test, and that students are getting the resources that they need.[12]

Thus far, however, the Quality Schools Initiative has proven that there are students who do not have the basic skills to succeed in school and beyond. Alaska Native students, in particular, score lower on achievement tests than any other minority group, and considerably lower than white students.[13] As the table below indicates, on the graduation qualifying exam, Native Alaskan 10th graders scored lower than any racial/ethnic group in reading and writing, and next to lowest in math. As would be expected, students with limited-English proficiency also scored poorly on the exams, with success rates of only 25.0 percent in reading, 15.3 percent in writing, and 15.9 percent in mathematics.[14]

TABLE 2

High School Graduation Qualifying Examination, Spring 2001, Grade 10 Subject Proficiency (in Percentages) by Race

	READING		WRITING		MATHEMATICS	
	Proficient	Not Proficient	Proficient	Not Proficient	Proficient	Not Proficient
Alaska Native	36.7	63.3	22.8	77.2	22.5	77.5
American Indian	59.3	40.7	43.2	56.8	34.5	65.5
Asian/Pacific Islander	51.7	48.3	38.9	61.1	38.2	61.8
Black (non-Hispanic)	43.9	56.1	29.1	70.9	20.1	79.9
Hispanic	52.0	48.0	33.2	66.8	29.7	70.3
White	78.0	22.0	56.3	43.7	53.5	46.5
Limited English	25.0	75.0	15.3	84.7	15.9	84.1

NOTE: Rates include only those students who participated in the exam.

SOURCE: Shirley J. Holloway, commissioner, Alaska Department of Education and Early Development, memorandum to state policymakers and education leaders, July 11, 2001 (re: high school and benchmark exam results for spring 2001), attachment.

Achievement differences can be seen across the state, in both urban and rural school systems. According to one commentator, the use of high-stakes testing adds to the tension between urban and rural communities, as village children's scores "lag woefully behind" urban students' scores.[15] But, even with access to more resources than many rural schools, the Anchorage School District is not absent disparities. The school district enrolls 50,000 students in 90 schools, with a minority student population of approximately 38 percent and growing 1 percent per year.[16] As with statewide scores, in Anchorage Native Alaskan[17] students score well below their white counterparts on standardized tests. For example, in the 1999–2000

[12] Davis statement, Aug. 23 transcript, p. 130.

[13] Shirley J. Holloway, commissioner, Alaska Department of Education and Early Development, memorandum to state policymakers and education leaders, July 11, 2001 (re: high school and benchmark exam results for spring 2001).

[14] Ibid., attachment, p. 2.

[15] Oldaker, "From Blackstone to America's Last Frontier," p. 6.

[16] Comeau statement, Aug. 24 transcript, p. 444.

[17] For reporting purposes, the school district groups Native Alaskan and Native American students together. Thus, in this discussion, the category "Native Alaskan" includes all Native American students.

school year, reading scores on the nationally administered California Achievement Test (CAT) averaged at 71 for white students and 41 for Native Alaskan students. Overall scores on the total battery of CAT scores showed an average score of 69 for white students and 44 for Native Alaskan/Native American students.[18]

These numbers are alarming to educators and community advocates. The commissioner of education expressed concern that the numbers reflect a divide in education and require immediate resolution. She stated:

> The analysis shows a deep divide in student achievement among ethnic groups. White students score higher than other ethnic groups, much higher on average than Native students. Why is this so? What steps do we need to take to shrink this divide? It's time for debate. It's time to find out. It's time for action. . . . It is vital that our data-driven debate be free of political and personal agendas, and focused on students.[19]

It is important to note that the largest gap in test scores generally occurs around the fifth grade, and in seventh grade, students are placed in courses according to their ability. If they have scored low on assessment tests, they will most likely be placed in low-level courses, setting the climate for their future education and a poor chance for later advancement. Because of their lower test scores, Native Alaskan students are more likely to be placed in low-level classes.

The same achievement trend is apparent with course grades, with Native Alaskan students having more difficulty successfully completing their coursework than other students. Native Alaskan students are less likely to receive "A" grades and more likely to receive "D" or "F" grades. In fact, during the 1997–98 school year, 34.6 percent of all Native Alaskan secondary school students in the Anchorage School District received a grade of "D" or "F."[20] Compared with white students, Native Alaskan students are:

- 2.4 times more likely to fail language arts courses;
- 1.8 times more likely to fail math courses;
- 2.4 times more likely to fail science courses; and
- 2.5 times more likely to fail social studies courses.[21]

According to one tribal council, "the cumulative effect is that Native American students fall further and further behind in the required courses, thereby diminishing their life's opportunities and choices."[22] Educators further note that "students who earn such grades are not meeting the standards set by their teachers and are not demonstrating the level of performance needed for success beyond high school."[23]

The low rate of successful completion of coursework often results in the failure of Native Alaskan students to graduate on a timely basis, and often they do not earn the required number of credits for graduation before they become older than the maximum age for school enrollment.[24] In the Anchorage School District, Native Alaskan students have the highest dropout rate of any group.[25] In the 1999–2000 school

---

[18] Cook Inlet Tribal Council, "The Status of Alaska Native/American Indian Students."

[19] Holloway statement, Aug. 24 transcript, pp. 428–29.

[20] Cook Inlet Tribal Council, "The Status of Alaska Native/American Indian Students."

[21] Ibid.

[22] Ibid.

[23] Cook Inlet Tribal Council, "The Status of Alaska Native/American Indian Students," *quoting* Anchorage School District, *Profile of Performance, 1995–96*, p. 35.

[24] Cook Inlet Tribal Council, "The Status of Alaska Native/American Indian Students."

[25] Ibid.

year, they made up 12.1 percent of the student population in Anchorage's schools, but represented 25.9 percent of all dropouts.

ROOTS OF THE PROBLEM

During the community forums, the SAC heard many theories and explanations for why the disparities in educational achievement exist. Based on the evidence presented, it is the SAC's assessment that the root of the problem cannot be attributed to any one factor; rather, inadequate diversity among teachers, poor curriculum, insufficient funding, and lack of political commitment to improve the situation have fostered an environment in which many minority students are destined not to succeed. This is compounded by external socioeconomic factors that present unique educational challenges for the most disadvantaged segments of society.

Lack of Teacher Diversity and Cultural Integration

Forum participants agreed that a major impediment to educational success for Native students is the lack of cultural integration in the school system. Panelists attributed the inadequacy, in part, to a dearth of Native Alaskan teachers and administrators. In fact, in all of the state's elementary and secondary public schools (including rural schools), only 5 percent of teachers are Native Alaskan, compared with a Native student population of 23 percent.[26] In the Anchorage School District, only 2 percent of the professional work force (teachers and administrators) are Alaska Native; 89 percent are white.[27] As a result, "children of color are not looking at people [who] look like them within the classroom."[28] According to one panelist, "many of these new teachers who teach our Alaska Native students know nothing about the language and culture of our communities and, therefore, our children are not being taught from their prior knowledge."[29]

Because of Alaska's unique diversity, there is also a special need for educators who can teach in multiple languages. Yet, there is a severe shortage of bilingual teachers in Alaska. Only 159 teachers statewide are endorsed to teach English as a second language for 19,700 bilingual students speaking more than 100 languages.[30] Half of the state's English as a second language (ESL) students are Alaska Native. In the school district of Anchorage alone, 89 different languages are spoken by students.

Education experts contend that the absence of a diverse teaching force stems from state recruitment practices—70 to 80 percent of teachers in Alaska are recruited from out of state.[31] Teachers accepting positions in rural areas, in particular, are not properly instructed on the cultural differences they will encounter and are often not prepared to face the harsh conditions and lack of resources common in rural areas.[32]

---

[26] Bernice Tetpon, program coordinator, rural/Native education liaison, Alaska Department of Education and Early Development, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Oct. 25 transcript, p. 108 (hereafter cited as Oct. 25 transcript).

[27] Carol Comeau, superintendent, Anchorage School District, written submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 24, 2001, attachment. The remaining teachers and administrators are 3 percent Asian American, 2 percent Hispanic, 4 percent African American, and 1 percent American Indian. Ibid.

[28] Davis statement, Aug. 23 transcript, p. 114.

[29] Ibid. Statewide, a total of 11 percent of Alaska's teachers are minorities: 5 percent are Alaska Native, nearly 1.5 percent each are Asian/Pacific Islander, black, and Hispanic, and less than 1 percent are American Indian.

[30] Holloway statement, Aug. 24 transcript, p. 435.

[31] Tetpon statement, Oct. 25 transcript, p. 108; Holloway statement, Aug. 24 transcript, p. 434.

[32] Davis written submission.

Conversely, when Native teachers are hired, they often face an environment that is not supportive and end up leaving the education system for other careers. One Alaska resident and former teacher spoke of her experience as the lone Alaska Native in her high school:

> I got the job by forcing the school district to hire qualified Alaska Natives. The Anchorage School District habitually recruits teachers from outside because they do not respect us as Natives. It doesn't matter how qualified you are. But as a Native, you get to the end of the job line when it comes to employment. . . . As a teacher I was covered with a shroud of racism and prejudice. . . . I can say this because Anchorage to me is my South Africa. It is a sad commentary to a beautiful state.[33]

The State Department of Education is currently conducting a study of the teachers who leave their profession in Alaska, why, and with whom they are being replaced. In addition, according to the superintendent of the Anchorage School District, the district is "trying very, very hard to hire Alaska Native teachers and minority teachers and administrators," but the efforts have not been as successful as hoped.[34] She added:

> We have to establish career ladders. We have to . . . reach out to our aides and to our paraprofessionals as well as some of our citizens in the community and encourage them to enter into the educational profession.[35]

There already exists a large pool of Native Alaskan instructional aides working in rural schools, but because of a lack of accessible teacher-training programs, they often face difficulty getting teacher certification and permanent jobs. The Department of Education must find ways to tap into this valuable resource.

There have been attempts to improve access to teacher-training programs, thereby increasing the number of Native Alaskans certified to teach in the state. For example, a statewide Rural Teacher Education Program uses the Internet, audio conferencing, and in-person instruction to assist prospective teachers with obtaining an education degree.[36] The University of Alaska at Fairbanks has established another program called the Rural Educator Preparation Partnership. This program's goal is to help Native Alaskans obtain certification to teach in their own village schools through one year of hands-on training with a mentor. While the program's concept shows progress, its reach is limited. Because enrollment in the program requires a four-year college degree, it excludes many Native Alaskans, who are less likely to have college degrees.

While it is important to recruit diverse teachers, it is also important that the teachers who are certified have the skills needed. The State Board of Education has the authority to approve teacher preparation in the state and can determine the standards necessary for teaching certification. The state commissioner of education has worked on a new design for a teacher preparation program in Anchorage that is standards-based. The program consists of a partnership between the municipality of Anchorage and four rural districts, and involves the mentoring of future teachers by university personnel and educators. In addition, the program taps into the University of Alaska's College of Arts and Science to foster the development of a strong base of knowledge in math, science, and language.[37] According to the state commissioner of education:

> We have in this country too many people that are assigned to schools that are our least experienced, our least prepared, with our neediest children. So we've got to make sure that we take our best prepared,

---

[33] June Degnan, Unalakleet Yup'ik, Alaska resident, statement, Aug. 24 transcript, pp. 564–65.

[34] Comeau statement, Aug. 24 transcript, pp. 450–51.

[35] Ibid., p. 452.

[36] Davis written submission.

[37] Holloway statement, Aug. 24 transcript, p. 474.

> strong content people, who know how to teach kids, understand how to bridge the culture of schools and the rich culture of the environment and be successful.[38]

Closely related to diversity among teachers is cultural sensitivity in curriculum. Cultural isolation can negatively affect the way children respond in the educational environment. The president of the Association of Village Council Presidents stated that children of Native Alaskan villages in effect go to school in a foreign country every day—"a foreign country because they don't speak their language and they don't learn about their culture and traditions." He stated that even in the school districts within the Yupik region, Yupik traditional values are not incorporated in the curriculum.[39]

Native students enrolled in large urban schools also often face cultural isolation. The superintendent of the Anchorage School District believes that one of the major civil rights challenges her district must overcome is making Native Alaskan students and their parents feel welcome in schools.[40] She noted that because of the size of the Anchorage School District, many minority parents perceive the schools as "cold and unfriendly places, rather than places where cultural values are nurtured along with learning the academic curriculum and standards."[41]

A bill was passed last year that requires school districts to teach Alaska history, but the program is yet to be developed.[42] In addition to informing all students about the heritage of Alaska and the significance of tradition in Alaska Native cultures, teaching Alaska's history would also promote a future generation of policymakers sensitive to the needs of all the state's populations. For instance, education would help settle the debate about subsistence and alleviate some of the urban/rural divide because Alaskans would gain a better understanding of the cultural, political, and economic issues unique to the geographic regions of the state.

Inadequate Funding

Despite being a wealthy state, due to the abundance of natural resources and a profitable oil industry, Alaska's public education system is, by many standards, underfunded. The education budget has been cut consistently for five years based on an increasing inflation rate of 20 percent and a dollar increase of only 8 percent.[43] Lack of funding has made it impossible for schools to meet the needs of the state's increasingly diverse student population.[44] According to one state lawmaker, the resources are not being allocated to the schools that are most in need or that are not performing as well as they should.[45]

In addition, there are formula differences in the way urban and rural schools are funded, to the disadvantage of rural schools. While more money is spent per capita in rural schools, these schools are considerably smaller and the cost of education is far greater, resulting in unequal spending power. Nonetheless, in an ill-conceived attempt to equalize per capita spending, a formula was adopted in 1998 that provides only 60 percent of per capita funding for every new student enrolled in rural schools, yet grants full funding for every new student enrolled in urban schools.[46] The governor of Alaska acknowledged that, despite rural schools being more expensive to operate, the gap between urban and rural education funding is not

---

[38] Ibid., p. 475.

[39] Lake statement, Aug. 23 transcript, p. 109.

[40] Comeau statement, Aug. 24 transcript, pp. 445–46.

[41] Comeau written submission, p. 1.

[42] Davis statement, Aug. 23 transcript, p. 133.

[43] Ibid., p. 116.

[44] Davis written submission.

[45] Davis statement, Aug. 23 transcript, p. 117.

[46] Oldaker, "From Blackstone to America's Last Frontier," p. 4; S.B. 36, enacted and codified in SLA 14.17.300–14.17.520 (July 1, 1998). *See also* Governor's Commission on Tolerance, *Final Report*, Dec. 6, 2001, p. 11.

narrowing.[47] The state legislature has been unable to agree on a revised formula to equalize education expenditures.

Beginning in 1999, the state stopped providing up-front funding for schools with enrollment of fewer than 10 students. Since then, local school boards have been forced to close 18 small schools.[48] There are a total of 506 schools in Alaska; 86 of those schools have an enrollment of 25 students or less and another 51 have enrollments of between 26 and 50 students. For these small schools, any funding cut could have a devastating effect. In addition, rural schools need adequate funding to attract and retain teachers and to compensate for the higher cost of living. Many rural communities do not have the economic infrastructure or tax base to supplement state funding for education. Nor do rural communities often have adequate school facilities, although rural communities will receive a majority of the $76 million in grants allocated last year to build and renovate school facilities.[49]

Although rural schools generally fare worse than urban schools in terms of educational costs and funding, urban schools have unique funding problems. For example, in urban schools there is not enough money to cut down class sizes so that teachers can make sure they are meeting the needs of every student. The superintendent of the Anchorage School District, therefore, recommends that urban and rural educators come together to battle these issues. She stated:

> I believe very strongly that Anchorage needs to work with the state so that all children are able to go to school in facilities where they can learn. And they shouldn't have to be worrying about the leaky roofs or the plumbing that doesn't work, if there is even any plumbing, and so forth. I mean we have to pull together as a state on these issues. And that has not always been true for a number of people from Anchorage.[50]

In response to the funding issue, the governor created an Education Funding Task Force, which was charged with developing a five-year fiscal plan based on increasing student performance and school accountability. Among its suggestions, the task force recommended a program providing funding to address the academic performance of students, specifically those students at risk of not passing achievement tests or qualifying exams. Funding was recommended:

- to update instructional materials, align curricula with state standards, increase teacher salaries, maintain facilities, and better serve special needs students;
- to provide incentive for high-performing schools and to encourage distinguished performance;
- to create a Center for School Excellence to provide technical assistance to all schools, but especially low-performing schools;
- to assist with improvement plans in low-performing schools; and
- to develop "distance delivered courses," which are core courses meeting state standards to be offered to high schools with fewer than 50 students.[51]

The task force recommended an increase of $42.4 million in year one of its five-year plan. It is unclear whether the state legislature will make increasing education funding a priority, but it has authorized a

---

[47] Tony Knowles, governor of Alaska, written submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 23, 2001; Knowles statement, Aug. 23 transcript, p. 65.

[48] Holloway statement, Aug. 24 transcript, p. 440.

[49] Oldaker, "From Blackstone to America's Last Frontier," p. 4.

[50] Comeau statement, Aug. 24 transcript, p. 453.

[51] Davis written submission. *See also* State of Alaska, *Education Funding Task Force, A+ Report to the Governor and the State Board of Education and Early Development*, Feb. 1, 2001.

study of statewide school district cost factors to determine whether the existing funding formula requires revision.

External Factors Affecting Educational Achievement

In addition to inadequacies within schools, many external factors can negatively affect school performance. For instance:

- *Poor attendance.* According to the superintendent of the Anchorage School District, a major impediment for performance for students in lower socioeconomic communities, and particularly Alaska Natives, is irregular school attendance.[52] She stated that "it's almost impossible for students to make up coursework, especially if it's discussion based or if it's hands-on activities."[53]
- *School stability*. On average, 34 percent of Native Alaskan students move from one school to another within the same academic year.[54]
- *Poverty*. Students from low-income families are less likely to have access to learning materials and experiences that enrich their academic achievements. They are also more likely to suffer from poor nutrition, overall poorer health, and living environments not conducive to learning. Nearly half of the Native Alaskan elementary school children in the Anchorage School District qualify for free/reduced lunch programs, indicating low family income. Alaska Native children are three times more likely to live in poverty than all children in the state.[55]
- *Violence*. Alaska Native children are disproportionately victims of violence in Anchorage, and the accidental death rate for Alaska Native children is almost five times that of all children in the United States. The suicide death rate for Alaska Native youth is nine times the rate of youths across the country.[56]

The State Department of Education and the Anchorage School District are making efforts to uncover the sources of the achievement disparities among students. The first step is to collect sufficiently detailed data and then to analyze the data to determine what programs are working, which courses successful students are taking, and what teachers are doing that is effective.[57]

In the meantime, where funding is available, programs designed to close some of the achievement gap have been instituted. For example, the Anchorage School District has implemented after-school math and reading tutorial programs in 12 elementary schools and five middle schools. The programs also include grant-funded after-school bus transportation to benefit students whose parents do not have access to vehicles or who have inflexible work schedules.[58] The school district has also initiated a summer school pilot program, in which several middle schools are working in partnership with the Cook Inlet Tribal Council. Council staff work side by side with teachers, modeling culturally relevant teaching strategies. This strategy appears to have worked thus far, so the school board is looking to forge additional partnerships.

---

[52] Comeau statement, Aug. 24 transcript, p. 446.

[53] Ibid., p. 447.

[54] Cook Inlet Tribal Council, "The Status of Alaska Native/American Indian Students," *citing* Anchorage School District, *Profile of Performance, 1995–96*, p. 47.

[55] Cook Inlet Tribal Council, "The Status of Alaska Native/American Indian Students."

[56] Ibid.

[57] Comeau statement, Aug. 24 transcript, p. 447.

[58] Ibid., p. 449.

Despite some gains made in the state's education system over the past few years, education officials acknowledge that the progress has been slow, and they sense the frustration of the communities they serve.[59] The state of Alaska has invested resources into examining the problems in its education system, but the true test will be how the ideas and recommendations proposed in recent years are implemented over time. In the words of the commissioner of education:

> It takes time to change this loosely coupled bureaucracy called public education. It takes time to build the local capacity of our professionals. It takes time to build the community support and understanding of how this is different from what we used to do.[60]

Educators and community advocates are justified in citing education as the most critical issue facing Alaskans today. Absent a strong and inclusive educational environment that promotes learning potential and fosters the growth of young people, the growth of society as a whole is stymied.

[59] Ibid., p. 444.

[60] Holloway statement, Aug. 24 transcript, p. 459.

CHAPTER 3

Economic Opportunity and Employment

> *With regard to . . . equality of rights, I suppose we could say we have that on paper. But the fact is that so many of those rights are driven by economics and our economics are far from equal.*[1]

Alaska's economy is unique due to geographic and cultural influences, as well as its reliance on the state's abundant natural resources. Over the last century, the character of Alaska's economy has changed dramatically, from a primarily subsistence economy to a market economy based on the sale of natural resources and the provision of services. Today, the state's economy is expected to simultaneously support the two systems, which are often at odds, resulting in a pronounced urban/rural economic divide and a huge disparity in income across the state.

Rural Alaska is made up of many remote communities that rely on both a market or cash-based economy and a subsistence or non-cash economy. Together, these economies determine the economic well-being of the community.[2] The market economy in these rural areas relies on the public sector for employment and funding, but because of the high cost of services and goods, cash quickly leaves these communities. Thus, many households in rural Alaska engage in subsistence activities, usually measured in pounds of harvested fish and game, which from an economic perspective can be viewed as employment.[3]

Alaska's market economy is centered in the state's few large urban communities that bring money into the state and generate monetary growth. These urban centers rely heavily on profits from the natural resources extracted from rural Alaska, but frequently do not contribute to the local economies where the resources come from.[4] It should also be noted that Alaska is highly dependent on the production of oil. On one hand, the state's oil resources have created enormous wealth, but on the other, dependence on this single source of income has the potential to create economic havoc in periods of declining oil prices. Approximately 85 percent of state governmental revenues are fueled by oil sales, so "any significant series of events affecting the market price of petroleum produces shock waves throughout the state."[5]

---

[1] Rick Halford, president, Alaska State Senate, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Aug. 24, 2001, transcript, p. 341 (hereafter cited as Aug. 24 transcript).

[2] Oliver Scott Goldsmith, director, Institute of Social and Economic Research, University of Alaska at Anchorage, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Aug. 23, 2001, transcript, p. 153 (hereafter cited as Aug. 23 transcript).

[3] Goldsmith statement, Aug. 23 transcript, p. 153.

[4] Janie Leask and Rick Mystrom, *Urban Rural Unity Study*, Commonwealth North, September 2000, p. 4 (hereafter cited as Commonwealth North, *Urban Rural Unity Study*).

[5] Lawrence Lee Oldaker, "From Blackstone to America's Last Frontier: Education in Alaska Amid Rural-Urban Tensions," n.d., submitted by Shirley J. Holloway, commissioner, Alaska Department of Education and Early Development, to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 24, 2001, p. 2.

One economist who spoke before the SAC noted that the economies in communities across the state are varied, and no single economic model is appropriate across the board. He stated:

> Every community is different in terms of having a natural resource available to them, having leadership, having special infrastructure capacity that would allow some communities to develop an economic base. And I think there are examples where that has happened, is happening in Alaska. . . . I think that because of the small size of communities, subsistence will always be a necessary element to an economy, if not a preferred desirable element, because small economies just cannot support a lot of jobs.[6]

Unemployment rates generally serve as a key indicator of economic stability and growth, but in Alaska this may not be a true measure of opportunity or livelihood. The method by which unemployment is measured counts only individuals who are actively looking for work. Individuals who participate in subsistence living as a main source of employment are not counted as unemployed, and thus the figures reported on unemployment in the rural areas may underestimate the actual market-based unemployment rates. According to one economist, because of subsistence, a year-round full-time job is not the goal for many rural Native job seekers. He argues that because the number of people looking for work in the market economy depends on the seasonal pattern of subsistence activities, the unemployment rate would be better measured by deficit hours rather than persons.[7]

Nonetheless, in rural Alaska there is an employment deficit, even allowing for hours spent on subsistence activities. In fact, statewide, Alaska's economy has taken a downturn in recent years, but the impact has resonated in rural more than urban communities. Average annual per capita income has fallen from among the highest in the nation to average. At the same time, urban cost of living has also decreased, masking the economic decline. For rural areas, on the other hand, where the cost of living remains high, the drop in income has had a devastating effect.[8] One-fifth of Native families live below poverty as compared with 7 percent of all families in Alaska. There is little economic development, employment, or income in remote Native villages. In some communities, the unemployment rate exceeds 80 percent. In addition, the high cost of living in villages has forced residents to rely heavily on public assistance.[9]

The rate of job growth in Alaska has slowed to levels of the early 1980s, and new jobs can mostly be found in lower wage trade and service sectors.[10] The number of jobs in higher paying resource industries of oil, seafood, timber, and mining is no higher than it was 20 years ago. Economic experts predict that the future will bring more job openings due to the retirement of employees hired during the economic boom of the 1970s, than to economic growth.[11] It is also predicted that the number of young Native Alaskans entering the job market in the coming decade will increase by as much as 50 percent. However, the majority of Natives live in rural communities where market-based jobs are limited and job growth is expected to slow.[12]

Minorities in urban Alaska are not immune to the economic hardships faced by the rest of the state. In Anchorage, the disparity in socioeconomic conditions is not only felt by Alaska Natives; other people of color continue to face these challenges. According to the president of the Anchorage NAACP, there is

---

[6] Goldsmith statement, Aug. 23 transcript, pp. 168–69.

[7] Ibid., p. 154.

[8] Commonwealth North, *Urban Rural Unity Study*, p. 11.

[9] Bonnie Jo Savland, statewide director, Alaska Native Coalition for Employment Training, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Oct. 25, 2001, transcript, p. 131 (hereafter cited as Oct. 25 transcript).

[10] Oliver Scott Goldsmith, director, Institute of Social and Economic Research, University of Alaska at Anchorage, written submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 23, 2001.

[11] Ibid.

[12] Goldsmith statement, Aug. 23 transcript, p. 152.

very little economic opportunity for African Americans and other minority groups. African Americans have difficulty securing jobs and when they do, often they are not given the opportunity for promotion to higher positions.[13] This pattern can be seen in state, federal, military, and private sectors. The NAACP president noted: "All one needs to do is walk into these various businesses to see where minorities are strategically placed and the positions that minorities hold."[14]

The poor economic condition of many urban minorities in Alaska has resulted in higher rates of destitution and homelessness. A representative from the Alaska AIDS Assistance Association stated that 30 people each year freeze to death in Anchorage, primarily Alaska Natives and other minorities.[15] She added that many of the people who are now homeless came from villages where they subsisted on hunting and gathering, but with restrictions placed on these activities they became unable to survive and were forced to move to unfamiliar urban areas.

EMPLOYMENT TRENDS

To gain an understanding of the employment status of minorities in Alaska, and because employment is such a large indicator of economic stability, the SAC invited several key employment experts to participate in its forum. Although invited, the U.S. Department of Labor's Office of Contract Compliance Programs did not participate on the employment panel, and the director of the U.S. Equal Employment Opportunity Commission's district office with jurisdiction in Alaska was unable to attend the two-day forum, although she addressed the SAC in its planning meeting the evening before the forum. Thus, the employment statistics provided focus more on public sector employment than private.

The racial and ethnic composition of Alaska's overall labor force, according to data collected by the U.S. Bureau of Labor Statistics, is as follows: 82.2 percent white, 3.0 percent African American, 9.6 percent Alaska Native and American Indian, 4.0 percent Asian and Pacific Islander, 1.2 percent other, including Hispanic.[16] In June 2001, Alaska's total civilian labor force, including all individuals 16 years of age or older, was nearly 335,000, almost half (44 percent) of which was in the Anchorage area.[17] The state's official seasonally adjusted unemployment rate in June 2001 was 5.8 percent, whereas the rate for the United States as a whole was 4.5 percent.[18]

A large percentage of Alaskans are employed in the public sector. Federal, state, and local government agencies employed 73,800 people in June 2001; nearly 22,000 individuals are employed by the state government alone.[19] The executive branch of the state government employs more than 14,000 permanent employees, including full-time, part-time, and seasonal workers. The state also employs more than 3,500 nonpermanent employees (which will be discussed in greater detail below).

---

[13] Celeste Hodge, president, Anchorage NAACP, statement, Aug. 23 transcript, pp. 31–32.

[14] Ibid., p. 34.

[15] Susan Trapp, Alaska AIDS Assistance Association, statement, Aug. 24 transcript, pp. 559–60.

[16] State of Alaska, Department of Administration, Division of Personnel, "State of Alaska Workforce Profile," Quarterly Update, June 30, 2001, submitted by Jim Duncan, commissioner, Alaska Department of Administration, to the Alaska Advisory Committee to the U.S. Commission on Civil Rights (hereafter cited as Department of Administration, "State of Alaska Workforce Profile"). These percentages are based on figures from the 1990 Census because, at the time this report was drafted, the work force numbers from the 2000 Census had not yet been disaggregated by race.

[17] Alaska Department of Labor, Research and Analysis Section, "Alaska Labor Force Statistics by Region and Census," <http://www.labor.state.ak.us/research/emp_ue/lfall.htm>.

[18] Alaska Department of Labor, "June Unemployment Inches Downward," <http://www.labor.state.ak.us/news/2001/news01-70.htm>.

[19] Alaska Department of Labor, Research and Analysis Section, "Alaska Statewide: Industry Employment Estimates—1995 to Present," <http://www.labor.state.ak.us/research/emp_ue/ak95prs.htm>.

When looking at the total number of people employed by the state of Alaska, it appears that the state has hired minorities in numbers greater than their proportion in the overall work force. The commissioner of the State Department of Administration indicated that the state is exceeding expectations in this regard.[20] The state of Alaska permanent executive branch work force has, in fact, seen an increase in minority employment over the past decade.[21] In 1990, the executive branch was composed of 15.5 percent minority employees, but as of June 31, 2001, the percentage had increased to 18.0 percent.[22] However, as table 3 illustrates, despite the increase, minorities remain underrepresented. In addition, when disaggregating permanent employees from nonpermanent employees, and full-time, part-time, and seasonal employment the numbers tell a different story. The following tables demonstrate that there are patterns in state employment.

TABLE 3

State of Alaska Permanent Executive Branch Work force Minority Percentages by Agency as of June 30, 2001

	African American	Alaska Native	American Indian	Asian	Hispanic	White	Total # Employed
Office of the Governor	2.5	3.7	0.0	3.1	0.0	90.1	163
Administration	4.3	4.3	1.0	14.1	2.3	74.1	1,330
Law	2.4	4.0	1.2	2.8	1.2	88.2	422
Revenue	5.7	3.9	2.4	7.2	2.8	77.5	457
Education	1.1	6.6	1.1	3.4	2.1	85.5	440
Health & Social Services	6.8	5.9	1.9	5.3	3.5	76.6	2,154
Labor	5.8	4.8	1.6	4.6	2.3	80.8	797
Community & Economic Development	4.9	7.8	0.7	6.8	0.9	78.4	426
Military & Veterans Affairs	3.7	2.3	1.4	4.2	1.9	80.5	215
Natural Resources	0.8	2.5	1.2	2.2	2.4	90.5	724
Fish & Game	0.7	4.4	0.8	1.6	1.3	91.0	1,381
Public Safety	3.7	7.3	1.8	3.0	3.5	80.2	708
Environmental Conservation	1.6	2.8	0.7	4.9	2.1	87.8	427
Corrections	6.0	6.0	2.7	3.0	3.1	79.1	1,284
Transportation	1.6	6.1	1.8	5.0	1.9	83.7	3,143
Total	3.5	5.3	1.6	5.1	2.3	82.0	14,071

NOTE: Numbers may not add up to 100 percent due to rounding; individuals of "unknown" race or ethnicity (totaling 0.2 percent) were omitted. Numbers include full-time, part-time, and seasonal workers.

SOURCE: State of Alaska, Department of Administration, Division of Personnel, "State of Alaska Workforce Profile," Quarterly Update, June 30, 2001, submitted by Jim Duncan, commissioner, Alaska Department of Administration, to the Alaska Advisory Committee to the U.S. Commission on Civil Rights.

Of the permanent executive branch employees, 5.3 percent are Native Alaskan, 5.1 percent are Asian American, 3.5 percent are African American, 2.3 percent are Hispanic, and 1.6 percent are American In-

[20] Jim Duncan, commissioner, Alaska Department of Administration, statement, Aug. 24 transcript, p. 498.

[21] These numbers account for only the executive branch of state government and do not include those employed by the state court system, the legislative branch of government, or the University of Alaska.

[22] Department of Administration, "State of Alaska Workforce Profile."

dian.[23] The largest concentrations of all minority employees in the state executive branch can be found in the administration, health and social services, and revenue divisions. The largest percentage of Alaska Natives can be found in the community and economic development sector (7.8 percent), followed by public safety (7.3 percent).[24] It is noteworthy, however, that Native Alaskans, who make up nearly 19 percent of the state's population, are still underrepresented in every office of state government. No other minority group is as largely underrepresented.[25]

As table 4 indicates, minorities make up a larger percentage of part-time employees, at 25.8 percent, than they do full-time employees in both permanent and temporary positions. In every category (full-time, part-time, and seasonal), minorities make up a larger percentage of nonpermanent employees than permanent. In fact, 40 percent of all nonpermanent employees are minorities.[26] Minorities are also three times more likely to be nonpermanent seasonal employees than permanent. Alaska Natives account for 37 percent of nonpermanent seasonal workers. Thus, not only are minorities more likely to be employed in part-time and seasonal positions, but they are also more likely to hold temporary positions when employed by the state. These numbers indicate a clear trend with a real economic impact in terms of income and benefits. Based on the numbers alone, it is impossible to determine why this employment trend exists, such as whether it is due to the seasonal nature of rural jobs, participation in subsistence activities, or the result of discrimination. Nonetheless, it is clear that the state must evaluate the economic impact of seasonal and nonpermanent work on the Native population, and take action to correct any disparities that are found.

TABLE 4

State of Alaska Permanent and Nonpermanent Executive Branch Work force Ethnic Summary by Employment Status as of June 30, 2001 (in Percentages)

	FULL-TIME EMPLOYEES		PART-TIME EMPLOYEES		SEASONAL EMPLOYEES	
	Permanent	Non-permanent	Permanent	Non-permanent	Permanent	Non-permanent
Alaska Native	5.0	11.6	7.4	24.8	7.6	37.1
Asian	5.4	3.2	8.6	5.8	1.7	0.6
American Indian	1.6	1.1	2.5	3.3	1.3	2.9
African American	3.8	2.4	4.3	3.1	0.8	0.4
White	81.6	76.8	74.2	57.1	86.5	56.2
Hispanic	2.4	1.1	1.2	1.9	1.8	1.1
Unknown	0.2	3.8	1.8	4.1	0.3	1.7
Total % minority	18.4	23.2	25.8	42.9	13.5	43.8

SOURCE: State of Alaska, Department of Administration, Division of Personnel, "State of Alaska Workforce Profile," Quarterly Update, June 30, 2001, submitted by Jim Duncan, commissioner, Alaska Department of Administration, to the Alaska Advisory Committee to the U.S. Commission on Civil Rights.

Furthermore, despite that a large percentage of Alaska Natives reside in rural communities, the representation of minority employees in rural offices of the state executive work force is not much better than in urban areas. Whereas in urban centers minorities make up roughly 18.0 percent (3.9 percent Alaska Native) of the state executive work force, in rural areas they account for 18.2 percent (8.2 percent Alaska

[23] Ibid.

[24] Ibid.

[25] *See* table 1, p. 5, for state demographics.

[26] Forty percent figure derived from data in Department of Administration, "State of Alaska Workforce Profile."

Native—much less than their percentage of the population).[27] When adding in nonpermanent employees, the percentages of minorities increase to 23.8 percent in rural Alaska and 21.8 percent in urban areas.

The municipality of Anchorage does not fare much better than the state in terms of employing minorities in percentages comparable to their representation in the population. Overall, only 14 percent of the city's work force (which includes approximately 2,600 people) are minorities.[28] Yet, minorities make up nearly 23 percent of the city's population. The mayor of Anchorage stated that he has made attempts to diversify the city's work force and noted that approximately 30 percent of his executive appointments have been minorities, and half are women.[29] He acknowledged, however, that these numbers do not "percolate all the way down through the ranks."[30] "The reality," he said, "is it does take a gradual, more concerted effort to make significant changes in the career municipal employees than it does in the executive ranks."[31] The mayor stated that if more minorities are going to be recruited, it is necessary to set aside old networks and actively search for candidates. In addition, once the management level is diversified, it will better reach minority communities.[32]

These numbers only provide a glimpse of the employment situation. To really understand the work force disparities and the extent to which employment opportunities exist, one must examine levels of employment in terms of job classifications and promotion rates, which are directly related to income. However, data are currently not collected on the promotion of employees by race/ethnicity, so it is impossible to determine whether minorities are being promoted at the same rates as nonminorities.

ASSESSING THE EMPLOYMENT DIVIDE

While the statistics provided thus far only present insight into one sector of employment, within one industry, they reveal much about the employment condition of many Alaska minorities, Natives in particular. And unfortunately, this occurrence is not isolated. The same underrepresentation is evident in private sector employment. According to one Alaskan economist:

> The share of Alaska Natives employed in virtually every industry in the state is less than their share of the population. . . . [A] 50 percent increase in Native workers would be necessary to create parity in job holdings. In some occupations requiring higher education, a 200 percent increase would be necessary for parity.[33]

As was discussed above, rural communities face many unique economic challenges, most noteworthy of which is the lack of jobs. Obtaining a job in rural areas is difficult for a number of reasons, the most prevalent being the lack of economic development and hence the lack of opportunity. This is compounded by the fact that often developers and other employers, when initiating jobs in rural communities, bring their own labor, in effect squeezing out the local labor force, which is primarily Native. According to one panelist who spoke before the SAC, hundreds of construction jobs are initiated each year in villages, but often contractors are required to pay union wages. Those contractors import labor from urban unions, leaving village residents out of work.[34]

---

[27] Department of Administration, "State of Alaska Workforce Profile."

[28] George Wuerch, mayor of Anchorage, statement, Aug. 24 transcript, pp. 311–12.

[29] Ibid., pp. 308–10.

[30] Ibid., p. 311.

[31] Ibid., p. 312.

[32] Ibid., p. 331.

[33] Goldsmith statement, Aug. 23 transcript, pp. 154–55.

[34] Jim Duncan, commissioner, Alaska Department of Administration, statement, Aug. 24 transcript, pp. 524–25. *See also* Paula Haley, director, Alaska State Commission for Human Rights, statement, Aug. 24 transcript, pp. 525–26.

The state commissioner of administration stated that many attempts have been made to put in place a local-hire law with no success. He added, however, that it is his impression that the unions in the state try to include local labor in their projects. They can do so through project labor agreements that require a certain level of local employment.[35] However, he also acknowledges that the problem has not been solved to the satisfaction of rural Alaskans.

It is also important to examine general hiring and recruitment practices that may place certain segments of society at a disadvantage. For example, nearly all state of Alaska jobs require at a minimum a high school education or GED, an Alaska driver's license, and prior work experience with the state. These qualifications, as benign as they may seem, effectively render many Alaska Natives ineligible, particularly those from rural communities.[36] In addition, residents in rural communities often have difficulty even learning about job opportunities because often job listings and hiring opportunities are communicated through Internet technology to which many small villages do not have access.

Once minority employees obtain jobs, they are often faced with additional challenges, including discriminatory policies and practices, and intolerance by co-workers. Many examples were presented during the SAC forums.[37] The director of Alaska's Human Rights Commission recounted several recent employment discrimination cases:

- In one, the employee, a Mexican American warehouse worker alleged that his supervisors and co-workers nicknamed him "Poncho" and referred to him in written notes and conversations in derogatory ethnic terms. He complained and was subsequently subjected to differential treatment and fired. His case was successfully conciliated.[38]
- In another case, an Alaska Native mine worker was subjected to racial harassment and was forced to resign his position due to the continued harassment. This case resulted in a settlement favorable to the employee, which included back pay. [39]
- Another complaint, under investigation at the time of the SAC forum, was that of an Iranian Muslim who worked as an aircraft mechanic. He complained that his co-workers spat on the windshield of his work vehicle, cut the lock off his locker, placed quarantine stickers on his locker, put a hangman's noose in his mailbox, and wrote derogatory comments about him, including fabricated disciplinary counseling forms.[40]
- In another instance, a company imported "skilled workers" into a rural community for a building project and also hired local workers. The company then put a policy in place that only allowed overtime for the imported workers. This policy obviously had a negative impact on all the local workers, most of whom were Alaska Native. Relief was obtained for the workers harmed by this policy.[41]

---

[35] Ibid., pp. 523–24.

[36] Sharon Olsen, director of employment and training, Central Council Tlingit and Haida Tribes of Alaska, statement, Oct. 25 transcript, p. 125.

[37] In Alaska, there are several avenues of recourse for individuals with complaints of employment discrimination: the U.S. Equal Employment Opportunity Commission, whose district office is based out of Seattle, Washington; the Alaska State Commission for Human Rights; and the Anchorage Equal Rights Commission. The majority of the state's employment complaints (78 percent) are filed with the Human Rights Commission, while 10 percent are filed with the EEOC, and 12 percent with the Anchorage Equal Rights Commission.

[38] Haley statement, Aug. 24 transcript, p. 489.

[39] Ibid., p. 490.

[40] Ibid.

[41] Ibid., p. 525.

These are not isolated instances. In 2000, 347 complaints were filed with the Alaska State Human Rights Commission. The vast majority of those complaints were in the area of employment. Although this number has decreased from 664 in 1995, according to the agency's director this is not necessarily due to a reduction in discrimination, but rather to the availability of jobs. Individuals often would rather look for a new job than go through the lengthy complaint process.[42] Racial discrimination is the most common reason individuals seek assistance from the Human Rights Commission, followed by discrimination on the basis of sex, disability, and age. In a seven-year review period, the number of race or national origin harassment complaints filed with the Human Rights Commission rose by 52 percent. The director of the agency stated:

> I think that in Alaska, many businesses are making an effort to create a productive and discrimination-free environment, but there are also plenty of cases where supervisors and managers continue to tolerate troubling behavior. That's back-stepping in Alaska, as well as elsewhere.[43]

Likewise, the Anchorage Equal Rights Commission investigates discrimination in the areas of employment, housing, educational institutions, public accommodations, financial institutions, and programs and services provided by the city.[44] The majority of the agency's cases—428 of the 636 filed over the past five years—involve employment discrimination issues. Interestingly, only 12 of those cases involve discrimination against Alaska Natives.[45] Testimony during the forums pointed to the conclusion that Native Alaskans are not less likely than other groups to be discriminated against; however, they are less likely to file a complaint because they distrust the system.

ACHIEVING EQUITY IN EMPLOYMENT

The economic challenges faced by Alaskans are many, but there have also been significant inroads made toward reducing some of them. According to the commissioner of the Alaska Department of Administration, the state is making attempts to diversify its work force and practice inclusion, as can be seen in recent hiring practices. The state has also recently instituted an employment discrimination and harassment course as a component of basic supervisory training.

It is also noteworthy that the state of Alaska has an affirmative action policy statement in place for its executive branch of government, with established goals to "promote diversity" in the work force, "remedy any racial, ethnic, or gender imbalances," and "bring the state employment profile more closely in line with the available workforce."[46] A representation and availability study is conducted on a quarterly basis by the Office of Equal Employment Opportunity within the governor's office. The Department of Administration records the information in the state's electronic recruitment system, putting hiring officials on notice. This does not necessarily mean that a minority will be hired to fill the position, but rather that qualified minority candidates will be given careful consideration.

In addition, the state is beginning to employ other strategies designed to reach minority populations in the state, such as participating in job fairs to reach people who do not have access to electronic job listings, advertising vacancies more prominently in the three major Alaska newspapers, notifying Alaska corporations of vacancies, and conducting applicant training sessions in partnership with job service offices statewide.[47]

---

[42] Ibid., p. 487.

[43] Ibid., p. 488.

[44] David Levy, executive director, Anchorage Equal Rights Commission, statement, Aug. 24 transcript, pp. 506–07.

[45] Ibid., pp. 507–08.

[46] State of Alaska, Office of the Governor, "State of Alaska Affirmative Action Policy Statement," signed by Governor Tony Knowles, Feb. 27, 1998.

[47] Duncan statement, Aug. 24 transcript, pp. 503–04.

In March 2002, as a result of the recommendations made by the Governor's Commission on Tolerance, Governor Knowles issued an administrative order, which, among other provisions, requires diversity training for all state personnel and specific cultural competency training for supervisors. The order also establishes a complaint process for citizens to report discrimination by state employees, and protects state employees against employment discrimination on the basis of sexual orientation or economic status.[48]

Finally, in the hopes of better serving state employees, the State Department of Administration is conducting a confidential survey of the job satisfaction level of all state employees. The hope is that this will reveal whether there is discrimination in state government and whether supervisors are unresponsive to employees' needs.[49]

Individuals employed in the private sector will not benefit directly from these state initiatives, although at least one step has been taken to improve the economic conditions of employees statewide. An initiative that would increase Alaska's minimum wage to $7.15 an hour, a $1.50 increase, was recently cleared for statewide ballot. Several bills are also pending before the state legislature that would increase the state's minimum wage to varying degrees.[50]

Much work remains to equalize the opportunities, as well as economic and working conditions of all Alaskans. A consensus among SAC panelists was that change must be initiated from the top down—from political leadership, to employers, to employees. The state must approach employment equity from a "big picture" view, developing initiatives to encourage labor force participation and to create opportunities where there are none. Further, state and local agencies charged with enforcing nondiscrimination in employment must be given the tools needed to carry out their responsibilities and to address employment discrimination on an individual level. Yet, this does not appear to be a priority for lawmakers. For example, despite the importance of the Equal Rights Commission's work, the agency has received little support from local political leadership. Its budget and staff have been cut from $475,000 and nine employees in 1987 to $454,000 and six employees in 2001. In fiscal 2000 there was a proposal to cut the agency by 80 percent, which would have "effectively eliminated local control of civil rights enforcement in Anchorage."[51]

With actions like this, it is no wonder that Alaskans have lost faith in the systems supposedly at work for them. According to the Governor's Commission on Tolerance final report:

> There is a perception among Alaska's minorities and others that the State of Alaska does not respond adequately to complaints of harassment and mistreatment in the workplace. As an employer and a service provider, the state must work to abolish institutional intolerance.[52]

Ultimately, minorities in Alaska must have access to the tools needed to succeed in the workplace. The absence of Native Alaskans, in particular, indicates that there has been a failure on the part of the state to prepare them for participation in an economy that is largely foreign to them and to include them in the decision-making processes. According to one economist, achieving full employment for rural and urban Native Alaskans requires that a larger share of existing jobs be taken by Alaska Natives, that efforts are made to expand jobs in rural Alaska, and that Native Alaskans receive education to prepare them for jobs in a market economy.[53]

---

[48] Admin. Order No. 195 (Mar. 5, 2002); "Alaska Governor Signs Anti-Bias Order," Bureau of National Affairs, Inc., *Daily Labor Report*, Apr. 9, 2002, p. A-13.

[49] Ibid., p. 518.

[50] Yereth Rosen, "Ballot Initiative to Raise Minimum Wage to $7.15 per Hour Cleared for Alaska Voters," *The Daily Labor Report*, Jan. 9, 2002, p. A-3.

[51] Levy statement, Aug. 24 transcript, pp. 511–12.

[52] Governor's Commission on Tolerance, *Final Report*, Dec. 6, 2001, p. 18.

[53] Goldsmith statement, Aug. 23 transcript, p. 154.

CHAPTER 4

The Administration of Justice

For thousands of years prior to statehood, Native villages in Alaska had in place effective dispute resolution and peacekeeping mechanisms. Early in the 1900s these systems evolved into elected village councils, which assumed the law enforcement and justice roles. However, after statehood, these mechanisms were dismantled as the state assumed the obligation to enforce criminal law, and by the early 1980s few councils remained active in the criminal justice arena.[1] According to one legal advocate who spoke before the SAC, the state's legal responsibility and its execution of those responsibilities have not converged. He stated:

> [A]t Statehood, the State assumed a constitutional obligation to provide equal protection under the law to *all* its citizens, not just to white citizens on the road system, but to Native citizens off the road system as well. The State has failed to live up to these obligations.[2]

He added that the state of Alaska, by failing to recognize the governmental powers and law enforcement authority of the tribal councils, has prevented the villages from enforcing their own laws and rendered them dependent on the inadequate services provided by the state.[3]

In September 2000, the governor of Alaska acknowledged the existence of 226 federally recognized tribes, but this acknowledgement did not include recognition of tribal enforcement powers. And without a commitment to compensate for the lack of local control, the end result has been a disparity between the law enforcement provided in urban areas and that provided in rural, mostly Native, areas.

During the community forums, the SAC heard repeated claims of mistrust of the justice system on the part of people of color in Alaska. The evidence presented lends legitimacy to the allegations of a system characterized by institutionalized discrimination and differential treatment of Alaska Natives, in particular. One panelist commented:

> Those associated with the administration of justice in Alaska understand that the words "Bush" and "village" in reference to criminal justice are code words denoting Native areas where the justice services are both qualitatively and quantitatively inferior to those provided in the state's non-Native communities.[4]

Many participants cited the paintball incident as an example of unfair administration of justice. In the immediate aftermath of the attacks, only one arrest was made, and that was one of the victims. Some contend that had the roles been reversed and the perpetrators had been members of a minority group, they

---

[1] Lare Aschenbrenner, directing attorney, Native American Rights Fund, Alaska office, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Oct. 25, 2001, transcript, pp. 70–71 (hereafter cited as Oct. 25 transcript).

[2] Lare Aschenbrenner, directing attorney, Native American Rights Fund, Alaska office, written submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Oct. 26, 2001, p. 3 (hereafter cited as Aschenbrenner written submission).

[3] Aschenbrenner written submission, p. 4.

[4] John Angell, professor emeritus, University of Alaska at Anchorage, statement, Oct. 25 transcript, pp. 63–64.

would have gone to jail first and the facts would have been gathered later. One panelist stated, "That's the way it is in this state, and this is what has to change."[5]

There are many issues of concern for Alaska Natives in the administration of justice, which will be discussed in greater detail. Among them are disproportionate sentencing and incarceration rates, inadequate defense bar funding, jurisdictional conflicts reducing tribal responsibility, lack of basic police protection for rural communities, and underemployment of Alaska Natives in the justice system. Discussion at the forums focused on three main components under the broad category of administration of justice: law enforcement and public safety, the judicial system, and corrections.

LAW ENFORCEMENT AND PUBLIC SAFETY

The provision of law enforcement and public safety services in Alaska was the subject of intense discussion during the SAC forums. Urban and rural residents alike charged that the services provided by state and municipal entities were insufficient and often discriminatory. A theme that emerged from the testimony of Native Alaskan participants was a lack of faith in the providers of public safety and a feeling that all too often the system itself perpetuated victimhood. The SAC heard emotional testimony from several victims. For example:

- One rape survivor spoke of mistreatment and poor service from the police department, which she alleges failed to properly investigate her case. In addition, she noted that because there was no victim advocacy, or emotional or legal support for her, she had to navigate the system alone.[6]
- The mother of a murder victim, speaking from her own experience, stated that her daughter's murder remains unsolved because of lack of effort on the part of law enforcement. She questions whether the law enforcement officials assigned to the case would have spent more time on it if her daughter had been white.[7]
- One survivor of kidnapping and sexual assault expressed concern about how her case is being handled by the prosecuting attorney assigned to it. Unlike others who spoke, she expressed gratitude to the police department and the medical personnel who assisted her during the trauma, but she believes the prosecuting attorney has failed to pursue her interests in his attempt to obtain a plea bargain with a reduced charge. She stated, "Basically I feel like I stand alone on this trail."[8]

Victimization of Alaska Natives

> *The trust that most Alaska Natives develop in their fellow man puts them in a very vulnerable position, especially in an urban area where that trust shouldn't be extended.*[9]

Alaska Natives are more likely than any other racial or ethnic group in Alaska to be the victim of a crime. Next to children, Alaska Native women are the most victimized group in the state, suffering high rates of rape and domestic violence.[10] In urban areas, they are victims of crimes at rates that far exceed their rep-

---

[5] Reverend William Greene, Eagle River Missionary Baptist Church, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Aug. 23, 2001, transcript, p. 105 (hereafter cited as Aug. 23 transcript).

[6] Susie Silook, Anchorage resident, statement, Aug. 23 transcript, pp. 258–63.

[7] Elena Sergie, Alaska resident, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Aug. 24, 2001, transcript, p. 590 (hereafter cited as Aug. 24 transcript).

[8] Elizabeth Koutchak, Alaska resident, statement, Aug. 24 transcript, pp. 535–36.

[9] Brian Porter, speaker, Alaska State House of Representatives, statement, Aug. 24 transcript, p. 339.

[10] Denise Morris, president, Alaska Native Justice Center, statement, Aug. 23 transcript, p. 196.

resentation in the general population. According to the mayor of Anchorage, despite that the city's crime rates are in a downward trend, a disproportionately high number of minorities are victims of crime.[11] For instance, Alaska Native women make up 45 percent of all reported sexual assault cases in Anchorage and 23.6 percent of the victims of domestic violence.[12] (Alaska Natives, including those who identify themselves as part Native, compose only 10.4 percent of Anchorage's population; Native women thus make up roughly 5 percent of the city's population.)

Since October 2000, at least five Alaska Native women have been abducted from downtown Anchorage and raped; since 1999 six women of color (one African American and five Alaska Natives) have been murdered in Anchorage. Four of these murders remain unsolved.[13] Alaska Native women are four and a half times more likely to be a homicide victim in Alaska than anywhere else in the nation.[14] Alaska also has the highest incidence of forcible rape in the nation, at a rate of 68.6 per 100,000 people as compared with the national rate of 34.4.[15] Statewide, between 1995 and 1999 more than 600 sexual assaults were perpetrated against Alaska Native women; 42 percent of those sexual assaults occurred in Anchorage, and the majority of them remain unsolved.[16]

Because so many of the crimes that occur in Anchorage and throughout the state involve victims who are Native Alaskan, there is cause to believe many of them are motivated by hate. In fact, the debate over whether to institute hate crime legislation in the state of Alaska has been revived in light of the paintball incident. The speaker of the State House of Representatives said there are individuals in the state legislature who are interested in pursuing hate crime legislation, and speculated there will be attempts to do so.[17] The true measure of hate crime activity is difficult to discern, however, because only the Anchorage Police Department participates in the FBI's reporting program on hate crimes.[18] Data are not as readily available for the rest of the state, and the Anchorage figures show that relatively few hate-related incidents are being reported. As the SAC forums revealed, however, these crimes often go unreported or uncategorized as such.

Unlike the paintball incident, these crimes are also rarely publicized and are not, in the opinion of many, aggressively investigated. Many within the Alaska Native community believe these crimes are symptomatic of a greater problem that is endemic to the state's criminal justice system and law enforcement programs, among others. Part of the problem, according to testimony, is that Native communities do not benefit from the same public safety protections as others.

---

[11] George Wuerch, mayor of Anchorage, statement, Aug. 24 transcript, pp. 307–08.

[12] Alaska Native Justice Center, "Administration of Justice Issues Faced by Alaska Natives," paper presented to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 23, 2001, p. 9 (hereafter cited as ANJC, "Administration of Justice Issues").

[13] Alaska Federation of Natives, "Briefing on Recent Hate Crimes Against Alaska Natives and Other Acts of Discrimination," submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Apr. 26, 2001 (hereafter cited as AFN, "Briefing on Recent Hate Crimes").

[14] Morris statement, Aug. 23 transcript, p. 196.

[15] Federal Bureau of Investigation, *Crime in the United States*, Annual Report, 1998.

[16] Julie Kitka, president, Alaska Federation of Natives, statement, Aug. 23 transcript, p. 24.

[17] Porter statement, Aug. 24 transcript, p. 353. The Alaska criminal code currently does not define hate crimes as specific offenses, but rather allows for more severe sentences in instances in which "bias motivation" is present. At sentencing the judge can determine if such bias exists and sentence accordingly, but usually the factors of aggravation used in sentencing are only applied to individuals with a prior felony conviction. These crimes are not elevated to a higher level for prosecution.

[18] University of Alaska at Anchorage, "Hate Crimes: An Overview of Numbers and Statutes," *Alaska Justice Forum*, vol. 18, no. 1 (Spring 2001), p. 1. Between 1995 and 1999, the municipality of Anchorage reported 40 "hate crimes" to the FBI.

Public Safety in Rural Alaska

Generally, the provision of public safety is the joint responsibility of state and local governments. In Alaska, however, absent a local government infrastructure in many villages, the state has assumed responsibility for providing police protection in rural communities. According to testimony presented to the SAC, the state's efforts in this area have been inadequate.

Many of the rural villages in Alaska, which are predominately populated by Natives, have suffered from inadequate police protection or other public safety measures for decades, leaving them vulnerable to crime. Alaska state troopers provide police protection to rural communities accessible by roads, but basic law enforcement in rural villages is often absent, meaning that there is less deterrence to crime and less enforcement of protective orders.

The Alaska Department of Public Safety (DPS), through the Alaska State Troopers and the Division of Fish and Wildlife Protection, provides service to 272 communities throughout the state. Sixty-four percent of those communities are accessible only by airplane, boat, or snowmobile. There are 334 troopers assigned to 42 trooper posts.[19] Inclement weather and remoteness prevent the small number of troopers from responding immediately to calls for service. According to the DPS commissioner, "the simple task of responding to a request for service in remote areas is and continues to be a challenge for our department."[20]

Some Native villages are served by village public safety officers (VPSOs) who handle lower level crimes under the supervision of state troopers.[21] However, these VPSOs are relatively few in number (in 2000 there were 84 officers in 76 villages), receive less training and pay than troopers, and are not allowed to intervene in major criminal cases.[22] The VPSO program has been criticized as a separate, unequal, and insufficient form of law enforcement.[23] VPSOs are on call 24 hours a day, seven days a week. They are not allowed to carry firearms, yet one study found that more than 75 percent of village officers had responded to a perpetrator with a firearm. Whereas Alaska state troopers receive 1,130 hours of law enforcement training, VPSOs receive only 200 hours.[24] VPSOs cannot serve arrest warrants or investigate felonies without the approval of state troopers. Table 5 summarizes the differences between the law enforcement provided to on-road and off-road communities by the Alaska State Trooper program, as described by one panelist.

The state argues that the high costs associated with providing off-road law enforcement render it impossible to serve every community in rural Alaska adequately, and hence justifies use of the VPSO program, which is less expensive, even if inadequate. However, even with the VPSO program in place, one-third of the 226 villages in Alaska are without any form of law enforcement.[25] In fact, there are 165 off-road communities that lack "certified" police officers, 136 of which are Native villages. More than 75 villages have VPSOs, but 73 villages have no local police at all, rendering them "virtually defenseless to lawbreakers."[26] More than 84 percent of the population receiving full protection from state troopers are non-Native, whereas 80 percent of the population that receive limited or no local police protection are Native.[27]

---

[19] Glenn Godfrey, commissioner, Alaska Department of Public Safety, statement, Aug. 24 transcript, p. 366.

[20] Ibid.

[21] The VPSO program, which was established in 1979, is administered by nine Native nonprofit organizations, and the officers are hired by their individual communities.

[22] ANJC, "Administration of Justice Issues," p. 8.

[23] Georgianne Lincoln, senator, Alaska State Senate, statement, Aug. 23 transcript, p. 180.

[24] Aschenbrenner written submission, p. 7.

[25] Lincoln statement, Aug. 23 transcript, p. 181.

[26] Aschenbrenner written submission, p. 9.

[27] Ibid., p. 10.

Advocacy groups and legal scholars argue that "neither cost savings nor administrative convenience . . . justify discrimination in the provision of governmental services."[28] One analysis concludes that there is a "statistically significant discrepancy between the level of public safety provided in Native villages and the level provided in non-Native communities, which can only be attributed to race."[29] Others have stated that "lack of basic police protection for rural Alaska communities is unequal treatment that endangers lives."[30]

TABLE 5

Comparison of Law Enforcement Provided to On-Road and Off-Road Communities

On-Road	Off-Road
▪ Troopers provide full police protection to communities that lack municipal police departments. ▪ Troopers handle all misdemeanors and felonies. ▪ Troopers issue warnings for less serious offenses. ▪ Troopers respond to domestic violence and take abused children into protective custody. ▪ Troopers conduct security checks on homes, cabins, and other buildings. ▪ Troopers assist motorists. ▪ Troopers regularly patrol communities, thereby deterring crime.	▪ Because of lack of resources, troopers handle virtually no misdemeanors, and less serious felonies go unprosecuted. ▪ Without a presence in these communities, troopers rarely, if ever, issue warnings or traffic citations. ▪ Troopers are unable to respond promptly to domestic violence, child abuse, or sexual assault offenses. ▪ Average trooper response time to villages takes many hours or days, as compared with 45 minutes for on-road communities. ▪ Because of difficulty accessing them, troopers rarely, if ever, patrol off-road communities, undermining the effects of deterrence.

SOURCE: Lare Aschenbrenner, directing attorney, Native American Rights Fund, Alaska office, written submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Oct. 25, 2001, pp. 5–6.

The lack of local police protection has several obvious implications. There is no crime deterrence, resulting in higher crime rates, as well as the illegal importation of alcohol and drugs, which are primary factors in most village crimes. Lack of police also means that less serious offenses go unpunished and that more serious crimes are not handled in a timely manner, including the provision of protective custody for victims of child abuse. One forum participant recounted the following situation:

> We had a situation in our region where sexual abuse of children was reported, and it took the troopers months to make it through the community; they were attempting to question the children over the phone, but that just did not work. . . . [We had] parents calling from the villages desperate to find out what was going on with the perpetrator who was still wandering around the village.[31]

The state is not alone in its neglect of law enforcement. The Federal Bureau of Investigation has also received criticism for failing to provide adequate services to rural Alaska residents. The bureau currently has 31 agents and 34 professional support employees assigned to Alaska. The FBI is charged with investigating allegations of civil rights violations, such as race- and religion-motivated violence, involuntary servitude, housing discrimination, and hate crimes. Between 1996 and August 2001, the FBI opened 59 civil rights investigations, nine of which were investigated as hate crimes.[32]

---

[28] Ibid., p. 11.

[29] ANJC, "Administration of Justice Issues," p. 9.

[30] Morris statement, Aug. 23 transcript, p. 195.

[31] Loretta Bullard, president, Kawerak, Inc., statement, Oct. 25 transcript, p. 52.

[32] Phillip B.J. Reid, special agent in charge, State of Alaska, Federal Bureau of Investigation, statement, Aug. 24 transcript, pp. 376–77.

The FBI acknowledges that its efforts have sometimes fallen short due to lack of personnel resources and an insufficient transportation budget to allow for travel to the remote areas of the state.[33] As a result, many small towns and villages, which are heavily populated by Alaska Natives, do not receive sufficient attention.[34]

THE CRIMINAL JUSTICE SYSTEM

A central concern of forum participants was that Alaska Natives are treated unfairly by the courts, as victims of circumstance and neglect. In particular, because Native communities do not have the authority to design their own methods for meting out justice, they are rendered reliant on a system that, by its operational scheme, places them at a disadvantage.

As discussed earlier, Native Alaskans do not enjoy the economic security that the state of Alaska as a whole does. Thus, access to legal representation is difficult at best, and many Alaska Natives are forced to rely on public legal assistance. According to the Alaska Native Justice Center, this problem is compounded by the fact that legal defense services funded by the state and federal governments have been reduced over the years, while funding for prosecutors has remained steady, "creating an imbalance overly emphasizing criminal punishment without sufficient defensive support."[35]

Other barriers to equal access to the justice system include the residence of rural Alaskans in areas distant from urban centers, language barriers, and lack of understanding of the judicial process. There is no court system in rural villages under the state system, except for the few state-funded magistrates. Generally, defendants are tried in state courts away from their villages.[36] Thus, residents in rural areas often lack adequate attorney-client relationships and communication due to the distances that separate them. Moreover, rural defendants are not afforded the right to a jury of their peers; often the jury pool only includes individuals who reside within a 50-mile radius of the courtroom, eliminating residents of remote villages.[37]

In addition, court proceedings take place in English, which for many Native Alaskans and immigrants to the state is a second language, and with respect to legal jargon, an entirely different second language. In Alaska's court system there is a lack of skilled interpreters who can provide translation in, among others, Native, Spanish, and Asian languages. The outcome of a case may depend on the communication between the defendant, jurors, witnesses, and the judge, but the precision of legal language and the subtleties of the English language can result in miscommunication.[38] According to an Alaska Supreme Court justice, the use of interpreters is essential, but lack of funding prohibits widespread use.[39]

In 1995, the Alaska Supreme Court formed the Advisory Committee on Fairness and Access. The committee has spent the past several years studying racial and ethnic bias in the state court system and designing programs to effect change.[40] Through the course of its public hearings, the committee heard reports of

---

[33] Phillip B.J. Reid, special agent in charge, State of Alaska, Federal Bureau of Investigation, written submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 24, 2001, p. 2 (hereafter cited as Reid written submission).

[34] Reid written submission, p. 2.

[35] ANJC, "Administration of Justice Issues," p. 5.

[36] Bullard statement, Oct. 25 transcript, pp. 57–58.

[37] Lincoln statement, Aug. 23 transcript, pp. 185–86.

[38] Robert L. Eastaugh, justice, Alaska Supreme Court, and co-chair, Alaska Supreme Court Fairness and Access Implementation Committee, statement, Aug. 23 transcript, p. 54.

[39] Robert L. Eastaugh, justice, Alaska Supreme Court, and co-chair, Alaska Supreme Court Fairness and Implementation Committee, written submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 23, 2001 (hereafter cited as Eastaugh written submission).

[40] This Committee made a series of 13 recommendations, which the Fairness and Access Implementation Committee is charged with assessing for implementation.

many inadequacies in the justice system. In 1997, the committee released a report which found that many minority residents find the courts intimidating to the point of being inaccessible. In addition to the barriers already cited, their cases are complicated by mistrust, cultural differences, and lack of familiarity with this "foreign" method of justice.[41]

According to the Alaska Native Justice Center, the higher numbers of Alaska Natives in the correctional system, which this report will discuss in greater detail, reflect how Natives are treated differently throughout the justice system, not that they commit more crimes. The difference can be attributed to a lack of cross-cultural understanding and acceptance.[42] Cultural norms influence behavior, which puts Alaska Natives at a disadvantage in a system that is neither flexible nor sensitive to other perspectives. For instance, because of their nonadversarial approach to interaction and deference to authority, there is an increased likelihood that Native Alaskans will readily admit to a crime rather than fight, obey an attorney's suggestion to accept a plea bargain offer, and exhibit passivity before a jury.[43] Native peoples are also more likely to plead guilty because they are uninformed about the consequences.

One panelist stated that the right not to respond to police interrogation and the right not to incriminate oneself are anomalies within Native Alaskan culture, which is based on honesty.[44] Another stated that Alaska Natives tend to be more straightforward, willing to answer questions, and willing to seek to right whatever wrong they may have committed. Often it means confessing to a crime they did not commit or to actions taken while under the influence of alcohol, resulting in tragic outcomes.[45]

As with the law enforcement component of justice, the absence of Alaska Natives in the court system has resulted in a system that does not incorporate cultural norms and that is largely inaccessible to the Native community. One participant in the SAC forum, who was one of the first Alaska Native women admitted to the state bar, observed that in her experience, there are no Native professionals in the Anchorage district attorney's office, the attorney general's office, the public defender's office, or among social workers, child custody investigators, or judicial officers. She further speculated that because of the division caused by sovereignty and subsistence issues, there has been a backlash in urban Anchorage against Native Alaskans, resulting in their exclusion from the judicial sector.[46]

CORRECTIONS

> *Prisoners in the United States and in Alaska are recruited from the ranks of the poor. They are recruited from the ranks of the uneducated and the unaffiliated. Very often that translates into recruitment from minority populations*.[47]

As the previous discussion demonstrated, the state of Alaska has failed to provide adequate judicial services to Alaska Natives, despite having the congressionally mandated responsibility to do so, resulting in less crime prevention, higher rates of participation in the court system, and ultimately higher rates of incarceration.

While the rate of incarceration in Alaska is lower than in the rest of the United States (336 per 100,000 as compared with 702 per 100,000 nationally), a disproportionate number of those in prisons and jails in

---

[41] Alaska Supreme Court Advisory Committee on Fairness and Access, Report, Oct. 31, 1997.

[42] ANJC, "Administration of Justice Issues"; Morris statement, Aug. 23 transcript, p. 192.

[43] Morris statement, Aug. 23 transcript, pp. 192–93; Lincoln statement, Aug. 23 transcript, p. 184; ANJC, "Administration of Justice Issues," p. 3.

[44] Porter statement, Aug. 24 transcript, pp. 339–40.

[45] Halford statement, Aug. 24 transcript, p. 342.

[46] Ella Anagie, Alaska resident, statement, Aug. 24 transcript, pp. 557–58.

[47] Margaret Pugh, commissioner, Alaska Department of Corrections, statement, Aug. 24 transcript, p. 380.

Alaska are Natives.[48] Alaska inmates are predominantly young males (93 percent), more than half of whom are racial or ethnic minorities. Alaska Natives make up close to 36 percent of the incarcerated in the state, despite being only 19 percent of the general population.[49] Further, if one considers the real population that is likely to be incarcerated—adult males—Native Alaskan adult males, who make up only 7 percent of the population but constitute a third of the corrections population, are even more disproportionately represented.[50] The percentage of the incarcerated population that is Alaska Native has increased over the past decade.

TABLE 6

Alaska Corrections Population by Race

	ALASKA IOPULATION[1]		STATE PRISONS AND JAILS[2]		STATE HALFWAY HOUSES[3]		STATE PROBATION AND PAROLE	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
White	463,999	67.5	1,678	46.3	340	45.3	2,670	56.6
Alaska Native/Indian	119,241	19.0	1,301	35.9	325	43.3	1,235	26.2
Asian/Pacific Islander	32,686	5.2	90	2.5	12	1.6	141	3.0
Hispanic*	25,852	4.1	114	3.1	14	1.9	159	3.4
Black or African American	27, 149	4.3	436	12.0	60	8.0	486	10.3
Others	20,666	3.3	1	0.0	0.0	0.0	29	0.6
Total	626,932		3,620		751		4,720	

[1] Data from 2000 Census; includes individuals who identify themselves as whole or a part of any of these racial/ethnic categories and therefore adds up to more than the total population.

[2] Data provided by the Alaska Department of Corrections, Aug. 1, 2001.

[3] Data collected from *The Corrections Yearbook 2000* (1999 data).

* Inmates of Hispanic ethnicity are also counted in other race columns.

SOURCES: Margaret Pugh, commissioner, Alaska Department of Corrections, written submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 24, 2001, p. 2; U.S. Department of Commerce, Bureau of the Census, "Profiles of General Demographic Characteristics, 2000," May 2001.

The state of Alaska is currently collecting data on state felony prosecutions to determine why racial and ethnic minorities are incarcerated in numbers disproportionate to their share of the population.[51] Some panelists speculate that the cause is differential treatment in the justice system; others argue that the problem is lack of access to resources, such as prevention programs and adequate defense counsel. Still other panelists contend that the reason for disproportionate incarceration rates among minorities is racial profiling, that it "starts in the streets," and that minorities are more likely to be stopped, searched, and investigated.[52]

According to an Alaska Supreme Court justice, there are no obvious answers to why minorities are disproportionately sentenced, but there may be subtle influences that work against them, particularly in rural

[48] University of Alaska at Anchorage, "Corrections Populations: Mid-2000," *Alaska Justice Forum*, vol. 18, no. 1 (Spring 2001), p. 2. Note that the state of Alaska has an integrated jail-prison system (hereafter cited as University of Alaska, "Corrections Populations").

[49] University of Alaska, "Corrections Populations," p. 2; ANJC, "Administration of Justice Issues," p. 2.

[50] Halford statement, Aug. 24 transcript, p. 341.

[51] Eastaugh written submission.

[52] Rex Butler, attorney, statement, Aug. 23 transcript, p. 214.

areas.[53] For example, when rural Alaska Natives enter the correctional system, usually as a result of substance abuse, they serve time, and the condition of probation or parole is to remain in a location where they can be supervised, which usually means a regional population hub. In such environments, they are more likely to come in contact with predators, alcohol, and other potential problems. The result is that they end up back in the correctional system. In other cases, the sentence imposed may depend on what rehabilitation prospects exist. The justice provided the following example:

> [In rural areas] the rehabilitation choices are usually more limited. This may cause sentencing judges to choose between programs available only in more urban areas (taking the offender away from the local community and local support) and imposing probation conditions (such as no alcohol) that the offender cannot easily meet, resulting in probation violations and re-incarceration.[54]

The Alaska Supreme Court Advisory Committee on Fairness and Access found that Alaska Natives are often forced to serve probation and parole time in urban areas away from their villages, due to lack of services in these areas.[55] The result is further isolation caused by the absence of a community support network, setting these individuals up for failure.

A representative from the Alaska Native Justice Center agreed with this assessment, adding that when rural offenders are released from prison, they are forced to reenter society in a location that is foreign to them (many lack city living and job skills) without culturally relevant services or community support to help them in their efforts during probation and parole.[56] One panelist stated:

> I would say that more than half of the [Alaska Natives who] are in the system are in the system because the system cut them in a way that's culturally related . . . And it goes all the way to the arresting officer, it goes to the public defenders, it goes to the court system, it goes right through the entire system and all the way out the back with regard to probation, parole, and not being able to get back to a place so they can survive that.[57]

In addition, it is estimated that more than 80 percent of the crimes committed by Alaska Natives are committed under the influence of alcohol and/or drugs; some put this figure higher at close to 100 percent.[58] Without substance abuse treatment that is culturally relevant, these individuals are destined to reenter the system.

Despite substantial budget increases over the past decade, the Alaska correctional system has faced overcrowding in its 13 state correctional institutions, largely in regional population centers, and 15 community jails operated under contract with local governments.[59] Note that Alaska is only one of five states that have a unified correctional system; that is, the state provides both prison and jail services for the entire state, not just the convicted felony population as in the other 45 states.[60]

As a measure to combat overcrowding in prisons and jails, in 1995 the state of Alaska began contracting for out-of-state prison space. As of January 2001, the Arizona prison system was home to nearly 800 Alaskans, more than any one prison in Alaska itself.[61] One Alaska resident who spoke before the SAC

---

[53] Eastaugh written submission.

[54] Ibid.

[55] ANJC, "Administration of Justice Issues," p. 3.

[56] Morris statement, Aug. 23 transcript, p. 193.

[57] Halford statement, Aug. 24 transcript, p. 345.

[58] Porter statement, Aug. 24 transcript, p. 344; Lincoln statement, Aug. 23 transcript, p. 187; Pugh statement, Aug. 24 transcript, p. 382.

[59] Pugh statement, Aug. 23 transcript, p. 233.

[60] This means that data comparisons between different states may not be parallel. Pugh statement, Aug. 24 transcript, p. 378.

[61] University of Alaska, "Corrections Populations," p. 2.

condemned this practice as a hardship for families and their children. She stated that removing prisoners from the state hampers the rehabilitation process because they are separated from their families.[62]

In response to similar concerns, the Department of Corrections introduced legislation to expand the state's existing correctional facilities so that offenders could be housed closer to their communities. The legislature, however, only funded one component of the plan, which was a new jail in Anchorage scheduled to open in April 2002. In addition, rather than expanding regionally, the legislature opted to create a large centrally located prison, which is being built.[63]

The commissioner of the Department of Corrections acknowledged this progress, but cautioned that regional facilities are still needed to resolve jail overcrowding in rural communities and to prevent unnecessary transportation of inmates away from home. In addition, she stated, "Institutions are at their best when they include programming that's culturally sensitive and appropriate."[64] The department has tried to integrate a variety of cultural and religious practices into the system, but the commissioner lamented that efforts have not gone far enough.

The commissioner outlined approaches necessary to addressing the challenge of incarceration in Alaska:

- Prevention in the form of education and programs for children should be improved.
- Lawmaking and funding for crime policies that focus on the offense rather than the offender should be rethought. The Department of Corrections has worked to provide lawmakers information on the impact of existing and potential legislation.
- Appropriate resources must be allocated for substance abuse treatment programs and legal representation for those who cannot afford it.
- A better approach must be instituted for managing the diverse population within the correctional system.[65]

Others who spoke before the SAC commented that the State Department of Corrections cannot fix the system's shortcomings alone, and that communities need to become involved to ensure that their members understand the process and are treated fairly. For example, for nearly 15 years, the North Slope Borough has had a prison outreach program, with an established liaison between the community and the criminal justice system. The liaison spoke before the SAC, stating:

> [T]here's so much prejudice and racism and no fair justice in so many ways, especially for the Native people that are from remote areas. . . . I can really sense the frustrations of the people that come before me. . . . I think we've made some monumental moves here, but I think there's much more to be done, and I sit before you to say that there has got to be community responsibility. And the population that we're speaking of can't be forgotten.[66]

STEPS TO EQUALIZE THE ADMINISTRATION OF JUSTICE

It is the opinion of the SAC that there must be greater accountability on the part of federal, state, and local law enforcement officials to ensure that the administration of justice is carried out in a way that serves all of Alaska's communities. Many steps can be taken to improve the administration of justice in Alaska, and in fact several panelists identified programs that have been implemented to remedy the problems identified thus far.

---

[62] Caroline Demientieff, Alaska resident, statement, Aug. 24 transcript, p. 579.

[63] Pugh statement, Aug. 24 transcript, pp. 385–86.

[64] Ibid., p. 386.

[65] Ibid., pp. 382–85.

[66] Luki Dobson, liaison, North Slope Borough, statement, Aug. 24 transcript, p. 554.

It is widely believed among forum participants that the problem of inadequate law enforcement services is partly due to the absence of Native Alaskans and other minorities in law enforcement careers. The one exception is the underfunded VPSO program, in which 69 percent of the officers are Native Alaskan. Of the 543 employees in the Anchorage Police Department, however, there are only 81 minorities (15 percent). Only eight police officers and eight non-officers are Alaska Natives.[67] Yet there is evidence that progress has begun: the current police chief is the first Native Alaskan in that position in 21 years. The chief admitted that the department must do more to attract minorities so that it reflects the racial and ethnic composition of the community it serves. The police department recently instituted a cross-cultural recruiting team to attract applicants from traditionally untapped communities in Anchorage and throughout the state.[68]

Other law enforcement agencies are also trying to diversify and integrate their work forces. The FBI is trying to recruit Native Alaskans to serve as agents. The agency has traditionally had difficulty recruiting Natives because many fear being assigned for duty outside the state. The director of the FBI's Alaska office is in the process of negotiating a program with headquarters in which agents will be assigned back to Alaska after graduation from training at the national FBI academy. A similar program proved successful in Hawaii.[69]

Alaska's Department of Public Safety recently received a federal grant enabling it to train more than 170 tribal, village, and rural police officers. A state budget appropriation also enabled the DPS to hire four regional public safety officers, called constables, who will receive the same training as state troopers and will be able to investigate misdemeanors and less complex felonies.[70]

Alaska Natives are likewise underrepresented in legal professions, the child welfare system, and juvenile justice.[71] Overall, 9.2 percent of the employees of the State Department of Public Safety (which houses the VPSO program) are Alaska Natives; 8.7 percent of Department of Corrections employees and 5.2 percent of Department of Law employees are Alaska Natives.[72] To encourage more Alaska Natives to seek careers in the justice system, the Alaska Native Justice Center has established a program in which stipends are provided to college students seeking careers in the field. The center also sponsors an internship program.

Additional attempts have been made to bridge some of the service gap between urban and rural Alaska. For instance, the FBI plans to establish an interactive Web site with a complaint hotline to provide information to individuals in rural communities. In addition, the agency has formed working relationships with other federal, state, and local law enforcement entities. Some of its partners in these efforts include the Anchorage Police Department, the U.S. Marshals Service, the Bureau of Alcohol, Tobacco and Firearms, Alaska State Troopers, the National Guard, and the Immigration and Naturalization Service. The FBI is in the process of developing a Joint Terrorism Task Force, which would investigate hate crimes, and is attempting to partner with other agencies to combine aviation resources as a way to improve transportation to rural Alaska.[73]

Attempts have also been made to bridge the cultural division between law enforcement entities and the communities they serve. For example, the chief of the Anchorage Police Department serves as the lead

---

[67] Walt Monegan, chief, Anchorage Police Department, statement, Aug. 24 transcript, p. 394.

[68] Monegan statement, Aug. 24 transcript, pp. 393–94.

[69] Reid statement, Aug. 24 transcript, p. 409.

[70] Godfrey statement, Aug. 24 transcript, pp. 368–69.

[71] Morris statement, Aug. 23 transcript, p. 197.

[72] ANJC, "Administration of Justice Issues," p. 10.

[73] Reid written submission, p. 2.

instructor on cultural awareness in the city's police academy. The police department also instituted its first citizen's academy, which informs the public about how the department operates.[74] The chief also has plans to create a community-policing unit to handle 22 designated "beats." The officers' responsibilities will be to attend community meetings, visit schools, and talk to business owners and residents. While there will be other officers assigned to those beats, the designated community officer will be the person assigned as the contact person for community residents.[75]

Additionally, the Anchorage Equal Rights Commission sponsors a Minority Community Police Relations Task Force made up of representatives from the Anchorage Police Department, the Alaska State Troopers, the Immigration and Naturalization Service, and the FBI. The purpose of the task force is to investigate and mediate complaints against law enforcement agencies involving allegations of police brutality and harassment.[76] This board reviews, on average, five to six complaints per year.

Finally, the special relationship Alaska Natives have with the federal government gives them jurisdiction over many of their own affairs. Currently, however, a relatively narrow range of legal matters can be handled at the tribal level. Those are limited to children's matters, domestic violence, other domestic relations, and other matters linked to core tribal relationships.[77] Many legal experts agree that tribal courts should be used more extensively as a cost-effective means of reducing state and federal court costs, while at the same time allowing tribal members to be more involved with the law and legal process. However, there has been relatively little done at the state level to expand tribal justice programs or to provide necessary funding.[78] Native Alaskan advocates hold out hope that the Millennium Agreement will renew the willingness of the state to work with tribal courts.[79]

---

[74] Monegan statement, Aug. 24 transcript, p. 392.

[75] Ibid., p. 393.

[76] David Levy, executive director, Anchorage Equal Rights Commission, statement, Aug. 24 transcript, p. 509.

[77] ANJC, "Administration of Justice Issues," p. 6.

[78] Ibid., p. 8.

[79] Bullard statement, Oct. 25 transcript, p. 54. *See* pp. 15–16 for a description of the Millennium Agreement.

CHAPTER 5

Designing a Course of Action to Promote Change

> *Indifference can be tempting, more than that, seductive. It is so much easier to look away from victims. It is so much easier to avoid the rude interruptions to our work, our dreams, our hopes. It is, after all, awkward, troublesome to be involved in another person's pain and despair. Yet to the person who is indifferent, his or her neighbors are of no consequence and therefore their lives are meaningless. Their hidden or even invisible anguish is of no interest. Indifference reduces the other to an abstraction.*[1]

Evidence presented in the Alaska SAC forums reinforced the fact that many lawmakers and other individuals in positions of power are in a state of denial about the existence of civil rights concerns. However, the honesty demonstrated by every policymaker, administrator, and government representative who testified before the SAC was noteworthy and encouraging. Each acknowledged the existence of discrimination and the disheartening perpetuation of racism throughout the state. The governor stated, "Alaska, like the rest of America, is not immune from the scourge of cultural and racial injustice. Concerns about discrimination and intolerance in Alaska are legitimate."[2]

While this climate of intolerance may be discouraging, it at least sets forth the admission that problems of racism and cultural insensitivity exist in Alaska. Without discounting the many programs and initiatives organized at the state and local levels and among private community organizations, the SAC acknowledges that a few government officials and local activists seek to address some of the concerns presented here. Three such initiatives deserve recognition:

- In May 2001, partly inspired by the paintball incident, the governor established the Commission on Tolerance charged with holding hearings to assess racism in Alaska and recommending remedial actions. In December 2001, the Tolerance Commission released a report identifying 40 key findings and presenting nearly 100 recommendations. The SAC supports the recommendations presented in that report and strongly urges the governor to take immediate action to ensure their implementation, including the establishment of timetables and action plans.
- In June 2000, the mayor of Anchorage established the "Kitchen Cabinet." The purpose of the cabinet, which comprises advisors from minority communities, is to keep the mayor informed of issues of importance to the city's various communities and make suggestions for healing racism in Anchorage. At the time of this report there were 65 members and six special task forces: education; employment and economic development; public safety and criminal justice; housing, health, and social services; community relations; and urban-rural

[1] Georgianne Lincoln, senator, Alaska State Senate, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Aug. 23, 2001, transcript, p. 176, *quoting* poet Eli Weisel (hereafter cited as Aug. 23 transcript).

[2] Tony Knowles, governor of Alaska, written submission to the Alaska Advisory Committee to the U.S. Commission on Civil Rights, Aug. 23, 2001.

relations.[3] Each task force was assigned to review municipal policies and procedures and develop actionable recommendations. The University of Alaska at Anchorage has assisted the effort by conducting a series of focus groups to measure racial attitudes in Anchorage.

- Also in Anchorage, a community group called Bridge Builders has been successful at forming and maintaining cross-cultural relationships among the city's residents. The group has more than 1,500 members of different cultural and racial backgrounds, representing 53 countries. Its purpose is to forge intercultural friendships and relationships through community service activities, events, and public hearings. According to the organization's director, the group is "trying to emphasize the positive elements of what diversity can bring to this community . . . and our approach is very simple. It's on a one-on-one grassroots level where we're changing people's attitudes one at a time."[4]

Promising seeds of resolution have been planted, and the SAC holds firm in its belief that these programs and others like them require a commitment and nurturing if they are to have their intended outcomes. However, despite these initiatives, there is a distinct and festering divide between what officials say has been accomplished and what the people—those who experience racism every day—perceive them to be doing.

A resounding theme echoed throughout both the panels and the public sessions of the SAC forums: action has been too slow. Alaskans voiced frustration with the numerous commissions, task forces, and research studies that have been conducted. They noted that volumes of recommendations have been made but never implemented, and many reports have been issued that merely ended up on a shelf. Perhaps their own words best reflect the call for action:

- "[T]here is a lot of goodwill, and there [are] a lot of nice words, there [are] a lot of reports out there, but I think it's really time that there is action behind the words we hear."[5]
- "There are many people crying here for help, and we need to assist them instead of sitting around in audiences talking about our problems, we need to find solutions and fund the people that are actually out there in the community assisting these people in their quest for justice and equality."[6]
- "I'm grateful that this advisory board is here to hear these things, but the same thing has been said for 27 years. And I think the public is really tired of all these commissions and all these gathering of facts and nothing has ever come about. I think it's time for action, and I think it's time for someone to take this matter more seriously."[7]
- "A number of studies completed by state agencies and other groups address these daily inequities, injustices, and discriminations. Frequently it seems as if these reports are filed away and quickly forgotten. Perhaps what lies at the heart of the matter is indifference."[8]
- "How many more reports proclaiming this powerlessness, this hopelessness must we publish? How many more commissions, committees, councils do we have to testify to before we see some results? . . . [W]e cannot simply leave our concerns in the halls of another hotel conference room, nor can we leave them enclosed in a binding of another book. If

---

[3] George Wuerch, mayor of Anchorage, statement before the Alaska Advisory Committee to the U.S. Commission on Civil Rights, community forum, Aug. 24, 2001, transcript, p. 316 (hereafter cited as Aug. 24 transcript).

[4] Susan Churchill, executive director, Bridge Builders, statement, Aug. 24 transcript, p. 552.

[5] Janie Leask, manager of community relations, Alyeska Pipeline Service Company, statement, Aug. 23 transcript, p. 86.

[6] Barbara Williams, Alaska resident, statement, Aug. 24 transcript, pp. 541–42.

[7] Reverend William Greene, Eagle River Missionary Baptist Church, statement, Aug. 23 transcript, p. 103.

[8] Georgianne Lincoln, senator, Alaska State Senate, statement, Aug. 23 transcript, pp. 175–76.

> we are to see equity in law enforcement, then Alaska Native peoples' attempts to strengthen their communities can no longer be ignored. . . ."[9]

Repeatedly, the SAC heard it stated that eliminating racism must be a community effort, but that there must also be a top-down commitment to political initiative and funding. The challenge lies in reconciling the divide that has emerged between the people and the politics, and translating the power of grassroots efforts into a statewide movement. The SAC believes that there have been earnest efforts on the part of some political leaders, but the momentum must be magnified if racism and its effects are to be eliminated.

Ultimately, the question must be asked whether, as a result of all the meetings and studies, the lives of the subjects, be they the victims of the paintball incident or other Alaskans affected by discrimination, will be improved. This is the standard by which efforts should be judged. Thus, the SAC makes the recommendations in chapter 6 with the hope of effecting real change.

[9] Ibid., p. 188.

CHAPTER 6

Recommendations

The Alaska Advisory Committee issues this report on the basis of fact-finding, including the record from its August and October 2001 community forums in Anchorage. At these forums, the Advisory Committee heard from elected public officials, agency directors, public and private organization leaders, and the general public; examined this record; and considered the views of all parties submitting testimony. The Advisory Committee believes the state of Alaska is in a unique position to act on a variety of concerns brought to its attention. The Advisory Committee firmly believes that the challenges presented by geography and the location of rural villages can be met by creativity, reallocation of resources, and greater use of technology.

In the area of education, the Advisory Committee is concerned about allegations suggesting a significant dropout rate for Alaska Natives and other minorities; a suicide death rate for Alaska Native youth nine times the rate for youth of all races in the United States as a whole; a disparity in the financial and human resources for educational facilities between urban and rural districts; a distressing racial/ethnic disparity in student achievement across the state; a lack of federal and state oversight of educational systems and a reluctance to withhold funds from districts not in compliance with mandates; a lack of Alaska Natives and other minorities as administrators, teachers, and noncertificated staff in school districts statewide; a reluctance on the part of the state legislature to acknowledge the consequence of the urban/rural divide in education; a lack of curriculum information on Alaska Native contributions to the state's development; and the unintended consequences of the statewide exit examination for high school students.

In the area of employment, the Advisory Committee is concerned about allegations suggesting a lack of employment opportunities in rural Alaska; underestimation of the severity of unemployment in the villages by counting only those who actively look for work and not those who have given up because there is no work available; a lack of training centers and a cut in funding by the state legislature for any type of industrial training program in rural Alaska; a lack of industrial shop classes in rural school systems; a lack of equal employment opportunity training, particularly for those holding supervisory positions; a lack of monitoring oversight for compliance with federal and state employment laws, policies, and procedures; little use of the exit interview as an integral part of personnel management procedures; the absence of Alaska Natives and other minorities in state employment; the imposition of unnecessary requirements on job applicants; a lack of adequate measures for gauging the economic viability of rural communities; the lack of a local-hire law; and the lack of adequate data and measurement techniques to assess the promotion of employees or job classifications by race/ethnicity within state employment.

In the area of the administration of justice, the Advisory Committee is concerned about allegations suggesting a disparity in the law enforcement services provided to off-road and on-road communities; the disparity in response time for law enforcement incidents across the state; that there are no parole and probation officers in the villages; that the legislature fails to provide funds for probation and parole in the villages; that there are insufficient alcohol treatment programs in rural areas; that the state of Alaska prohibits 227 tribal governments from exercising law enforcement and providing judicial services under tribal laws; that there are no courts available in some rural areas; that trials for Alaska Natives are not be-

fore a jury of their peers because trials using the jury system are held in regional centers or large cities; and that there is a lack of public trust in the judicial system.

The concerns and complaints are not new. Many panelists noted that there have been numerous studies, reports, and recommendations to deal with the issues in education, employment, and in the administration of justice. The Advisory Committee believes the state's elected and appointed officials and employers must confront the concerns and deal with them. The Advisory Committee agrees that it is time to implement action for constructive change. The Alaska Native community and other minorities who have initiated and added to the fabric and development of the state deserve inclusion in the process to refine and ensure growth and positive change without impinging upon cultural attributes, traits, and mores. Alaska can make a statement regarding its citizens that may prove to be a model for the growing diversity of the nation.

It is in this spirit of constructive change, that the Advisory Committee strongly recommends implementation of the following actions:

Education

1.1 The Alaska Department of Education should adequately fund programs for rural and urban school systems to decrease the dropout rate among Alaska Native and other minority students.

1.2 The state legislature should increase funding of the educational facilities and programs for rural Alaska school districts.

1.3 An addition should be made to the statewide curriculum requiring the study of Alaska's history dating back to the migration of its early indigenous people.

1.4 An addition should be made to the statewide curriculum that would allow rural school districts to teach local cultural elements to their students.

1.5 The Office for Civil Rights of the U.S. Department of Education should increase its visibility in the state and conduct additional compliance reviews of school districts, including those in rural areas.

1.6 Federal and state funds should be immediately withheld when there is evidence that violations have occurred.

1.7 The Office for Civil Rights of the U.S. Department of Education should ensure that the implementation of the state's new Quality Schools Initiative and High School Graduation Qualifying Examination do not have an adverse impact on minority students.

1.8 School districts should increase their numbers of Alaska Natives and other minority certificated and noncertificated staff.

1.9 The University of Alaska system should provide access to teacher preparation programs to rural citizens within their own communities.

1.10 The state legislature and state school board should revisit the high school exit examination issue to assess whether its implementation achieves the desired outcomes. The examination process and test should be evaluated each year and updated accordingly.

1.11 Each school, particularly those in urban centers, should have a community ombudsman to bridge the gap between the needs of Native students and other minority students and the school.

1.12 An Alaska Native student achievement center should be created to collect data on California Achievement Test (CAT) scores, benchmark test scores, dropout rates, GED enrollment, attainment of higher education, and the impact of Native language and culture on student achievement.

Employment

2.1 State departments should be monitored periodically by an external agency for compliance with federal and state employment laws, policies, and procedures.

2.2 All human resource personnel should adopt the exit interview as an integral part of their personnel management procedures.

2.3 State departments should increase the recruitment, hiring, and retention of Alaska Natives and other minorities and develop procedures for promotion.

2.4 The state must do a better job of providing employment education that includes training to succeed in the unique market economy of rural Alaska and that targets the mix of future job opportunities.

2.5 The state should conduct an analysis of state jobs and ensure that the qualifications required are appropriate for the job descriptions and do not have a discriminatory effect.

2.6 The State Department of Administration should immediately begin collecting and analyzing data on the race/ethnicity of employees and job classifications to determine whether minorities are being promoted at the same rates as nonminorities, and if not, whether discrimination is a cause.

2.7 The state should determine a better measurement for gauging the economic viability of rural communities, taking into consideration such factors as lack of economic infrastructures and participation in subsistence work.

2.8 The federal and state governments should make grants available to the State Human Rights Commission, Anchorage Equal Rights Commission, and other such commissions in the state so that they can engage in meaningful outreach and education programs to prevent discrimination.

2.9 The state legislature should adopt a local-hire law and enact work-sharing agreements between union contractors and village councils.

2.10 Labor contracts with unions should be renegotiated to meet the needs of rural Alaskans.

2.11 The State Department of Transportation and Public Facilities, the Bureau of Indian Affairs, and the U.S. Department of Housing and Urban Development must develop contractual agreements that would create greater employment opportunities for rural village residents.

2.12 The state must evaluate the economic impact of its seasonal and nonpermanent work force, particularly in Native communities, and take corrective action when disparities are found.

2.13 Congress should conduct a national parity study to ensure that states are employing minorities at rates comparable to their representation in the population. States that fail to demonstrate parity in hiring should be examined more closely to determine whether there are practices or polices in place that may be discriminatory. These instances should be referred to the Employment Litigation Section of the U.S. Department of Justice for further investigation.

Administration of Justice

3.1 The state legislature should provide funds to implement probation and parole programs in the villages. This may require the reallocation of present financial and human resources.

3.2 Tribal court jurisdiction should be immediately implemented at the village level. The federal and state governments should continue to support restorative efforts with funding and technical assistance in order to allow for greater local control of justice matters.

3.3 A program should be designed and implemented that requires all village police officers and village public safety officers to undergo 1,500 hours of training at the Alaska State Trooper Academy.

3.4 Training programs should be implemented to increase public awareness of how the judicial system operates.

3.5 The state and local governments should develop effective efforts aimed at recruiting more Alaska Natives and other minorities into careers in the justice system. The court system should employ and train Alaska Natives and other minorities as paralegal professionals, court clerks, and other support staff.

3.6 The use of modern technologies should be increased to upgrade the quality and effectiveness of the judicial system in the rural areas. For example, some communities have developed video capability so that a probation officer can supplement ongoing supervision of offenders in rural communities. This has enabled individuals on probation to remain close to home. A teleconferencing procedure may work for certain court cases as well.

3.7 Efforts should be made to enlarge the pool of qualified jurors so that all defendants have the opportunity to be tried before a jury of their peers. The state often relies on a relatively small pool of residents in urban centers and rarely selects jurors from rural communities. Because of the geography of the state and the location of rural villages, this requires a creative approach.

3.8 Sentencing alternatives available to judges should be expanded.

3.9 The Alaska court system should recruit and train local interpreters in Native and common languages. Incentive pay should be provided to bilingual police officers and corrections officials who provide translation services in the line of duty. The University of Alaska system should offer a curriculum for interpreters in various languages.

3.10 Law enforcement programs should be developed to increase the number of Alaska Native and other minority officers hired by local jurisdictions and the Alaska State Troopers. As part of this effort, the state should mandate cultural diversity training for all law enforcement and criminal justice staff.

3.11 The state must develop culturally relevant prison programs, substance abuse intervention, and treatment programs.

3.12 Greater judicial reliance should be placed on village dispute resolution processes with the assistance of tribal organizations.

3.13 A disproportionate number of Native Alaskans in the legal system are forced to rely on underfunded public legal services. The state must provide meaningful support to the Public Defender Agency, Alaska Legal Services, and the Office of Public Advocacy so that all individuals in the criminal justice system are afforded competent and thorough representation.

General

4.1 An ombudsman office or official should be established to facilitate dialogue between the public and policymakers. The Advisory Committee's forums revealed the need for people to voice their concerns and air grievances. The Governor's Tolerance Commission hearings and Anchorage mayor's workshops and hearings demonstrated the importance of allowing citizen input. The state of Alaska and each municipality and locality should establish a forum through which individuals can voice their complaints.

4.2 The state must become creative in dealing with the urban/rural divide. The state must first assess the reasons for the divide and then develop a plan to eliminate it. In doing so, the state must take into account the higher operational costs of rural communities and develop a funding formula that adequately covers the difference.

4.3 The state must spend adequate money and time in rural Alaska to train community members to take on state functions in servicing villages. This will not only create year-round jobs in rural communities, but will also reduce the amount of time it takes the state to respond to the needs of these communities and offer equal access to state services for rural residences.

4.4 The state must begin to develop rural economies that can support local government. Many forum participants believe that state-imposed funding limits amount to state neglect, particularly in rural areas. State aid to local governments should be increased to facilitate them in their governmental operations. In addition, the state should not use the provision of federal funds as an excuse to reduce its expenditures in villages.

4.5 The state legislature should adopt a constitutional amendment guaranteeing a rural subsistence priority for use of fish and game resources and place it on a ballot before the people of Alaska in 2002. The legislature should adopt a law that creates co-management of Alaska's fish and game resources with participation of Alaska Natives and rural residents. Agreements between local entities, Native organizations and corporations, other Alaskan users, and the state and federal governments are all appropriate co-management options.

APPENDIX

List of Forum Participants

DAY ONE: THURSDAY, AUGUST 23, 2001

Overview Panel

Julie Kitka, President
Alaska Federation of Natives

Celeste Hodge, President
National Association for the Advancement of Colored People

Won Pal Chung, Chairman
Asian American Cultural Center

Maria Rosas, Consultant
Retiree from State Department of Corrections

Justice Robert L. Eastaugh
Alaska Supreme Court

Governor Tony Knowles
State of Alaska

Janie Leask, Manager, Community Relations
Alyeska Pipeline Service Company

Jennifer Rudlinger, Attorney
Alaska Civil Liberties Union

Education Panel

Reverend William Greene
Eagle River Missionary Baptist Church

Arthur Lake, President
Association of Village Council Presidents

Senator Betty Davis
Alaska State Senate

Employment Panel

Romeo Rescober, Natural Resource Officer
State of Alaska, Department of Natural Resources

Oliver Scott Goldsmith, Professor
Institute of Social and Economic Research

George Irvin
First Alaska Foundation

David J. Della, Director
Community Affairs for United Way

Administration of Justice Panel

Senator Georgianne Lincoln
State Senate

Denise Morris, Chief Executive Officer
Alaska Native Justice Center, Inc.

Roy Hundorf, Chairman
Alaska Native Justice Center, Inc.

Rex Butler, Attorney

DAY TWO: FRIDAY, AUGUST 24, 2001

George P. Wuerch, Mayor
Municipality of Anchorage

State Legislative Panel

Senator Rick Halford, President
State Senate

Representative Brian Porter, Speaker
State House of Representatives

Administration of Justice Panel
Glenn Godfrey, Commissioner
Department of Public Safety

Phillip B.J. Reid, Special Agent in Charge
Federal Bureau of Investigation

Margaret Pugh, Commissioner
Department of Corrections

Walt Monegan, Chief of Police
Anchorage Police Department

Education Panel
Shirley Holloway, Commissioner
Department of Education and Early Development

Carol Comeau, Superintendent
Anchorage School District

Employment Panel
Paula Haley, Director
Alaska State Commission for Human Rights

Jim Duncan, Commissioner
Department of Administration

David Levy, Executive Director
Equal Rights Commission
Municipality of Anchorage

AFN CONFERENCE PARTICIPANTS: THURSDAY, OCTOBER 25, 2001

Village Issues Panel
Willy Kasayulie, Chairman
Akiachak Ltd.

Edward Thomas, President
Tlingit and Haida Central Council

Mike Williams, Chairman
Alaskan Inter-Tribal Council

Administration of Justice Panel
Loretta Bullard, President
Kawerak, Inc.

John Angell, Professor Emeritus
University of Alaska at Anchorage

Lawrence A. Ashenbrenner
Native American Rights Fund

Education Panel
Shirley A. Tuzroyluke, Education Information Manager, CIRI

Bernice Tetpon, Program Coordinator
Rural/Native Education Liaison, Department of Education and Early Development

Andy Hope, Southeast Alaska Regional Coordinator
Alaska Rural Systemic Initiative

Employment Panel
Sharon Olsen, Director
Employment and Training, Central Council
Tlingit and Haida Tribes of Alaska

Bonnie Jo Savland, Statewide Director
Alaska Native Coalition for Employment Training