

INTERVIEW OF ARLENE CLAY

CONDUCTED BY KAREN BREWSTER
BARBARA HOOD AND JOHN MURPHY

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TAPE 1 - ORAL HISTORY

KAREN BREWSTER: Okay. This is Karen Brewster and today is January 25, 2012 and I am here with Arlene Clay in her apartment in the Primrose Retirement Community in Wasilla, Alaska. And this is for the Judges Oral History Project and I am joined by Barbara Hood from the Alaska Court System and John Murphy, a friend of Arlene's who will be sitting in the background and listening. So thank you, Arlene, for being so patient while we set all the equipment up and --

ARLENE CLAY: Are going to run out of time here.

KAREN BREWSTER: Well we will have to come back. So why don't you tell us a little bit about yourself to get us started with where you came from and how you ended up in Alaska?

ARLENE CLAY: Okay. I came from the state of Maine and I lived in Boston for a number of years. Graduated from the New England Conservatory there. My husband was also from the state of Maine and he was the conductor of the New Hampshire State Symphony Orchestra. And that was in the year 1941 we came to Alaska. The old CAA, Civil Aeronautical Administration, put an ad in the QST, which the ham radio magazine, looking for people -- a man and wife team to come to Alaska and train for aircraft controllers and communicators. We applied and got it and we spent six months out in Boeing going to school and at the end of it after six months we went up to Nome. We stayed in Nome for a while and transferred to Aniak and we stayed at Aniak at least one - - one year longer than what was required. We resigned and built a cabin up river at a homesite and just lived for about ten years. We had a dog team. In the winters all we did was just dog team around the country. Went out to all the trappers cabins and so on and so forth and -

KAREN BREWSTER: What year was it that you moved into Aniak from Nome?

ARLENE CLAY: Forty-four.

KAREN BREWSTER: And you built your cabin right in Aniak or --

ARLENE CLAY: No, it was three miles up river on the other side from Aniak.

KAREN BREWSTER: Oh, on the other side of the river.

ARLENE CLAY: Uh-huh.

KAREN BREWSTER: Oh! And you got back and forth how?

ARLENE CLAY: I had 30-foot round bottom riverboat with a 25 horse Johnson, no 40 horse Johnson that I used.

KAREN BREWSTER: Uh-huh. And in the winter --

ARLENE CLAY: Dog team.

KAREN BREWSTER: Dog team. Wow!

ARLENE CLAY: Any more questions?

KAREN BREWSTER: No, that is it, we are done. No. So tell me how you became magistrate.

ARLENE CLAY: Well the person who was magistrate at the time decided to go back home and he just asked me if I would take it and I said no I don't want it, but I got it and that was 1960.

KAREN BREWSTER: 1960. So between '44 and 1960 did you work? Well you and your husband were the radio operators?

ARLENE CLAY: Well we had our ham radio and, but my husband passed away in '56 and I just -- I was the -- I worked at the post office a while as a clerk and secretary for the FAA until I got the magistrate's job.

KAREN BREWSTER: Why did you decide to say yes to being magistrate?

ARLENE CLAY: I didn't have any choice. They just left it and went.

KAREN BREWSTER: Do you remember your first day on the job what that was like?

ARLENE CLAY: No not really.

KAREN BREWSTER: What kinds of things did you do as magistrate?

ARLENE CLAY: Well I have got it all in here. How do you want to do this?

KAREN BREWSTER: Well do you have some specific stories you would like to tell me?

ARLENE CLAY: Well I have got an outline here.

KAREN BREWSTER: Okay.

ARLENE CLAY: I thought it might be what --

KAREN BREWSTER: Sure.

ARLENE CLAY: Okay.

KAREN BREWSTER: Let's do it that way. That is great.

ARLENE CLAY: You got to do this -- this way and if you want to you can take notes and ask me questions?

KAREN BREWSTER: Yep. Yeah, that is fine. That is wonderful you are so prepared. That is great. Let's do it that way.

ARLENE CLAY: Okay. There used to be a US Commissioner's office in Aniak and they had the same authority as a superior court and at statehood their office became magistrate's office and you had all the functions of the commissioner's office, except probate. You could not do probate, but we were coroners. We were responsible for missing persons and Aniak was a large mining district and so we did all the recording. We recorded all the mines and the (inaudible) assessment work and all the real estate deeds and so forth and other official papers.

Okay. Aniak was founded by a white man Tom Johnson, who took out a homestead at the east end of the island, took up -- started a trading post and all of the trappers then moved into the area. But because Aniak was founded by a white man it was never considered a Native village and they were not eligible for any of the BIA funding or any of the BIA schools. Everybody up and down the river had a BIA school, except Aniak and it had a territorial school.

KAREN BREWSTER: I never knew that. I have been to Aniak and I didn't know that.

ARLENE CLAY: Okay. At that time it was fully important to know the Native culture and understand it as it was in Alaska statutes and it was very frustrating for the Native people when it became a state and regulations and they had many conflicts and one of them was that a Fish & Game any boy of the age 10 or older was allowed a limit of beaver, but to get that limit he had to go out to the trappers cabin and stay there while the beaver were caught. Along came the Department of Education with their regulation say everybody of school age had to be in school. So no matter what they did if they went out for his beaver

he would be in violation of the education and if he stayed at school, he would be in violation of the Fish & Game. That was one of their big frustrations.

KAREN BREWSTER: Yeah.

ARLENE CLAY: Okay, the Bush people the only contact they had with the Alaska Court System was the magistrate's office. So I kept a tight court. Any of the lawyers that was appearing in my court was required to wear a suit and tie and -- or else they would be in contempt of court.

KAREN BREWSTER: Did you issue any contempt of court orders because of that?

ARLENE CLAY: No, they dressed.

KAREN BREWSTER: That is good.

ARLENE CLAY: And of course the magistrate's court says a jury of six and I had a long list of the voters that we drew the jury from and I would appoint somebody to be the court of -- the clerk of the court to draw the names. So it was done the way everybody else in every other court had done it.

KAREN BREWSTER: Were you always able to find enough jurors?

ARLENE CLAY: Oh, yes.

KAREN BREWSTER: Aniak is a -- not a very large town.

ARLENE CLAY: Well when we first came to the village there were 150 people only in the whole village and only 15 of those were white people. Everybody else were Native folks. So yes there was plenty of -- well okay in the Native culture the women and girls were always submissive to the men and boys. And if they sat on a jury we had to find these out by experience, but they -- the women would never find a Native trapper guilty. And we had one violation of a fellow that had shot a moose out of season. Well here again we had to figure out well did he really need the meat and what time of year it was. If it was in the summer, there was plenty of fish in the river, so he did not need the meat, but if it was in the winter that was a different story. And he asked for -- he asked for a jury trial. So we set it up and he had a jury trial and we picked the jury and during the process of court he got up in court and he said yes I did shoot the moose and he would not say I am guilty because there is no word in the Native language for guilty, but he would say yes whatever the violation was yes I did this, but he would not say I am guilty. But anyway he said he did this and the jury turned him loose, found him not guilty.

KAREN BREWSTER: Because he couldn't say guilty? He didn't -- because he would not actually say the word?

ARLENE CLAY: No. He said he did the violation, but there was women on the jury and they would not find him guilty.

KAREN BREWSTER: Uh-huh.

ARLENE CLAY: So they turned him loose.

KAREN BREWSTER: The Native culture in Aniak you are referring to they are Yupik speaking people?

ARLENE CLAY: Yupik, yes.

KAREN BREWSTER: Yeah. Would you like to have a glass of water --

ARLENE CLAY: No.

KAREN BREWSTER: Maybe?

ARLENE CLAY: No.

KAREN BREWSTER: No, you are okay. All right.

ARLENE CLAY: John seemed to think you might be interested in one of the stories of a missing person that we --

KAREN BREWSTER: Yeah. Search and rescue operation. Was that what -- was it a search and rescue trying to find a missing person?

ARLENE CLAY: Yes. Uh-huh. That we were responsible for and at that time we had a CAP composite squadron and all the local pilots of course belong to it.

KAREN BREWSTER: CAP, excuse me, Civil Air Patrol. Is CAP Civil Air Patrol?

ARLENE CLAY: Civil Air Patrol

KAREN BREWSTER: Patrol, okay. I'm sorry, go ahead.

ARLENE CLAY: And we an old timer that had come to Aniak. He had been a miner in some place state side and when his wife passed away he was so devastated he sold everything. He happened to meet somebody from Aniak down on the Columbia River, who told him he could trap all winter and prospect all summer. So he arrived up in Aniak and the second fall he was there one of the Native trappers took him as a partner and he had a trapping cabin up the Aniak. And just before Christmas the partner drove -- his name was Fred, drove him into Aniak to be there for Christmas and so he did not wait for his partner to come and pick him up. After New Year's he decided he was going to walk out to the cabin. He didn't know the country and on the way out he stopped at the Chief's house, Tim Kameroff (phonetic) whose homestead was just across the river from where the trail started and he stopped in there and Tim did everything he could think of to have him wait for his son to come in with his dog team and he would run him out. And he kept saying no I'll be out there in a couple of hours and he noticed that all he had was a pair of thin jersey gloves and he tried to give him a pair of fur mitts. He said no I will just put them in my pocket if my hands get cold.

So he started off down the trail. It was pretty mild. In the first place it was approximately twenty miles out to the tundra and he made it out to the tundra okay, but that is all we knew about him. Now had they come and told me that he had started to walk out I would have either hooked up my dogs or I would have had a Native trapper go out and pick him up, but nobody said anything. So it was the day after New Year's his partner came in to pick him up. That was the first we knew that he had never reached the cabin.

So as long as I had the CAP there, all the pilots, I organized them to take one trapper that knew that part of the country to take him out during the daytime and they would search, be sure that they brought him in before dark and after about three days of searching they finally found old Fred and apparently he had gotten out to the edge of the tundra, forgot that he had to travel on the tundra for a few miles and then backtracked to the cabin. When he hit the edge of the tundra, he could hear the dogs down to the left. So he decided to just go across country. Well they had a lot of snow that year out on the tundra. It was waist deep. So he started to wade through that and they finally found him after three days of searching.

Of course, they needed a coroner. They had to come pick me up. We found where he had crawled under spruce trees either to rest or something and when he finally sat down, he sat down along side of a real small spruce tree and apparently to rest and he tried to get up and he was holding onto this little spruce tree and all his skin was worn off his hand where he tried to get up. Apparently he just laid back and went to sleep and froze. He was frozen in a sitting position, so we were not able to get him into one of the little planes. So I had one of the Native trappers bring him into Aniak with their dog team.

When we got him into Aniak, we put him down in the warehouse because we wouldn't be thawing him, you know. And old Tim, the chief, came up and he said we want to build a box. Well it seems like the Native folks if a violent or an unusual death like drowning, freezing are very -- they had certain things that had to be performed on that body before they could be buried, which, of course, I didn't know. But they come up and said well we will build a box for a (inaudible). So I said okay and so after couple two or three days they had -- they had Tim Easton -- old Tim came out and said well we got to take his shoes off. I said you can't take his shoes off. They are frozen solid to his feet. And they said no, we have to take his shoes off. His shoes happened to be rubber shoe pacs which had the metal eyelets on them. So I finally said well why -- why do you have to take the shoes off? And he said well on account of the eye in, which, of course, he meant the eyelets, the metal eyelets.

KAREN BREWSTER: The ones next to the laces? Is that what you mean the eyelets for where the laces go?

ARLENE CLAY: I'm sorry.

KAREN BREWSTER: The eyelets on the front of the boot where you tie the laces?

ARLENE CLAY: Yes. They were shoe pacs and that is what they had and so I said well it is not the shoes, it is the metal eyelets and they said yes. I said well cut them off. So now he cut them off and then he was satisfied and we finally buried old Fred.

KAREN BREWSTER: So you cut his shoes off but not the -- they left the feet on? They left his feet attached.

ARLENE CLAY: Well he was frozen stiff through everything. You couldn't even thaw him out, you know.

KAREN BREWSTER: You mentioned some of the traditions that the Native people had for dealing with bodies.

ARLENE CLAY: (Inaudible).

KAREN BREWSTER: Was he the type to take the shoes off.

ARLENE CLAY: Yeah, because they said if they did not take his shoes off because of the metal eyelets he would be up walking around for the next two years so they had to take it off, but the shoes was okay but the metal had to come off. So I said well cut it off.

KAREN BREWSTER: So as magistrate one of your duties was to oversee search and rescue missions like that?

ARLENE CLAY: Yes. Yeah. It was one of the commissioners that, you know, functions and when they turned it over to the magistrate we did all their functions, except probate.

KAREN BREWSTER: Right. So were there other -- were there other searches that you were involved with that came out with different endings?

ARLENE CLAY: Yeah, but that was the main one, yeah.

KAREN BREWSTER: That was the big one. It is too bad it ended the way it did. Go ahead. We have the refrigerator noise in the background.

ARLENE CLAY: And magistrates at that time there was just one trooper stationed in Bethel and he had an area from Barrow to Pribilof on the south coast, Hooper Bay on the left over the range to Anchorage and that was his. All that territory he had to carry -- to service. Many times if we needed a trooper, he was not available. So we ended up doing some of the enforcement work and, of course, most -- all my cases -- probably ninety-nine percent of them were alcohol related and so we had a lot of domestic violence at that time and on two occasions during 18 years I was called out in the middle of the night because a

husband was beating up on the wife and the kids were all scared and crying. So I had to go down and the husband would always be standing in the doorway with a rifle saying anybody that comes to interfere they would shot. So I had to disarm him. So I just kept walking towards him and praying all the way and finally up to him where I could take their rifle from him. And I had the wife and the children taken over to the mission and I would walk him over to the roadhouse and sit with him until he sobered up drinking coffee. Then I would let him go home because his wife would not sign a complaint against him. Now if it was so that the troopers came up and made an investigation they could sign a complaint against him, but so that was what we did.

We had another fellow that was a FAA personnel. He liked to drink every once in a while and when he would get a supply in after hours he would sit by the kitchen window drinking and everybody that went by he would invite them in to drink and of course they were all Native folks that came in. So about two o'clock in the morning I'd get a call from him. He would say come over and kick the drunks out. And I would say no I said you fed them the booze, you kick them out. Well they won't go out for me. So I would get up at two o'clock in the morning and get dressed and go over and I walked in and they would all be in there and all I would have to say is that you have had your fun and he has to get up early in the morning to go to work so how about going home. And they would all get up and go home with no problem. But there was one fellow that was -- he was a very pro-Native person. We had one -- two families that were pro-Native and he found out about me being a Gussick and he being a Native and everything. So his wife come up and I would say is Am (phonetic) home and she would say yes and I'd say well go ahead and take him home so that was another one of the deals that we had.

KAREN BREWSTER: Your story about disarming that man at the door. You tell that story about disarming the man at the door like, yeah that was nothing. I just took the gun away from him. It sounds very scary to walk up to the door of somebody pointing a gun.

ARLENE CLAY: Well like I say I prayed all the way. So I had to do that twice in my 18 years and the other deal was the troopers were able to make an investigation and they signed the complaint, okay.

KAREN BREWSTER: May I interrupt with one more question which is to remind us what years you were the magistrate, your 18 years of service?

ARLENE CLAY: Well I started in 1960 and it was 1977.

KAREN BREWSTER: Thank you.

ARLENE CLAY: Uh-huh.

BARBARA HOOD: What caused you to stop -- what caused you to retire from the position in '77? What caused you to retire in 1977 from the position?

ARLENE CLAY: I just retired.

BARBARA HOOD: Okay. Had it long enough?

ARLENE CLAY: Okay. Let's get on with this. There was always a balance between the Native culture and the court statutes. Okay, now I had nine villages on the Kuskokwim. Are you interested in the names or not?

KAREN BREWSTER: Yes. Yes, I am very much interested to know the territory you covered and where you went. I am interested.

ARLENE CLAY: Okay. I started at lower Kalskag, upper Kalskag, Aniak, Chuathbalak, Crooked Creek, Red Devil, Sleetmute, Stony River and we had one village that was up the Stony River. Over on the Yukon I had four villages Holy Cross, Anvik, Grayling, and

Shageluk up on the Iditarod. That was the ones I had. And when the troopers got a call from one of the villages they usually came by and picked me up and I would go out in the village and lots of times I would hold court in the villages. And I had, of course, magistrates -- the maximum sentence a magistrate could give would a year and I did give one of the fellows over by the Yukon a year and about March I got a letter from him from prison saying oh I have to get home and get my boat ready and I have to put my fishwheel and all this stuff. And so I wrote back and said well look I have a 30 foot round bottom riverboat that I scrape and paint every year. I also have a fishwheel that I put in to fish my dogs. You have plenty of time to finish your sentence, so he did.

But going into the villages a lot of times they ask for a jury trial or not, that was their privilege and before I did sentencing either I or the trooper would make an investigation or talk to the Elders or if they had a village council, talk to them and find out what kind of behavior this defendant had. Was this his first time or was he just terrorizing the villages all the time? So and if it was the first time, they would probably recommend not to be taken out of a village. So I would give them a suspended sentence and with so much community work to perform. There was always the wood piles for the Elders and if they -- if they -- if they pleaded with me and they had asked him we would like to see him out of the village for a while, so I would sentence him and the trooper would take him to Bethel and let's see that is about all I had on that. Did you want to add anything that I have done?

JOHN MURPHY: No, I think that is fine.

ARLENE CLAY: Nora Guinn and I worked together on a case that was kind of amazing. Like I said, most of my cases -- all of them practically were alcohol related. And when they come before my court, they always told me where they got their liquor and at that time we had a bootlegger that was supplying everybody. He had a small plane and he would go around to the villages and supply them all. One fellow almost murdered his dad and beat up on him. And asked him where he got his booze and he told me about this bootlegger and when we had a new trooper in Bethel at that time and I gave him the complaint and he said well we can't act on one complaint. So I said okay. So as they appeared these defendants appeared in front of my court I would ask him where they got their booze and they would always tell me and it was always this bootlegger. So I stacked them up for about twelve and then I gave them to the troopers in Bethel and they finally arrested the bootlegger. Well he had to come in front of my court so I sentenced him. I don't remember if it was 30 days or 90 days. It was a misdemeanor and I sentenced him to Bethel jail and at that time Bethel jail was like a hole in the wall. Nobody wanted to go into it, but I sentenced him to that so he went to jail and he didn't like it. He called Nora's court and said he wanted to be on a work release and Nora called me and told me. I said well what do you want to do on a work release? Well naturally he wanted to carry on with his flying and supplying everybody with booze. I said no I won't go along with that. The only work release I will allow him on would be the honey bucket detail and you know what that is.

KAREN BREWSTER: Yes.

ARLENE CLAY: And he served his sentence.

KAREN BREWSTER: I wonder if we can do anything about the sound of your refrigerator?

JOHN MURPHY: Let me go look at it.

KAREN BREWSTER: You can --

ARLENE CLAY: What do you need?

KAREN BREWSTER: We are going to take a little break for a second.

ARLENE CLAY: Okay.

KAREN BREWSTER: We have to remember to turn it back on.

JOHN MURPHY: Yeah, I will.

KAREN BREWSTER: Okay, thank you, Arlene.

ARLENE CLAY: All the coast villages had Native magistrates and, of course, you knew Sadie up at Barrow and Nora Guinn in Bethel, who became a district court judge. They all did a real fine job and we had two seminars. One in Anchorage and one in Bethel, which we all attended and I think that is about all I had. Oh, my court was finally superior court appointed me as special master so I could adjudicate juvenile cases and I guess that ends it.

KAREN BREWSTER: Okay.

ARLENE CLAY: Unless you have questions.

KAREN BREWSTER: I do have questions. You brought up -- you brought a lot of interesting things and some of them I had already written down to ask you about.

ARLENE CLAY: Okay.

KAREN BREWSTER: So if we can go back. The first one I want to ask you about is what your early courtroom was like? Where did you hold court?

ARLENE CLAY: Well my living room was my court for a long time and finally they built a little -- they sent in a court. It was two -- two trailers put together. It was very nice. It had two cells and I have pictures of it. You can't take pictures, okay.

KAREN BREWSTER: No, I can take pictures.

ARLENE CLAY: Oh.

KAREN BREWSTER: And the court might already have pictures.

BARBARA HOOD: I love to see those.

KAREN BREWSTER: We can look at them when we are finished.

ARLENE CLAY: Okay. I also got a picture of Sadie and I as we appeared in Anchorage with fur parkees on.

KAREN BREWSTER: I have seen that picture.

ARLENE CLAY: Have you?

KAREN BREWSTER: Yes, it is a great picture. Yeah. So, your early court -- what about staff? Did you have people helping you when you started as magistrate?

ARLENE CLAY: No.

KAREN BREWSTER: It was just you?

ARLENE CLAY: Uh-huh.

KAREN BREWSTER: Did you eventually get --

ARLENE CLAY: The troopers always were very helpful, of course.

KAREN BREWSTER: Uh-huh.

ARLENE CLAY: And if I was up home at my homesite and the troopers needed me, they just flew up and buzzed me and I would get in my boat and went into Aniak and after hours or on weekends and so forth.

KAREN BREWSTER: It sounds like you never -- you didn't get much rest. You were always on call.

ARLENE CLAY: That is right. We were on call 24 hours a day, just like the troopers.

KAREN BREWSTER: Yeah or just like the community health aides.

ARLENE CLAY: Right.

KAREN BREWSTER: Which is a lot of responsibility to have that kind of job in a community?

ARLENE CLAY: Yeah it was.

KAREN BREWSTER: Did you enjoy it?

ARLENE CLAY: Yes. Yeah, I enjoyed it. Most of the Native people that I sentenced they would always come back and say -- they always thanked me for doing it and I know -- I knew I did a bad thing so I deserved it. I never had any trouble with the Native peoples that I had sentenced. They were always real good friends.

KAREN BREWSTER: Uh-huh. What about the non-Natives in Aniak, did they feel the same?

ARLENE CLAY: The what?

KAREN BREWSTER: The white people in Aniak, how did they feel?

ARLENE CLAY: I never had anybody come up in front of my court, except the bootlegger and there wasn't enough people anyway. There only was 15 people there. Of course, now there is over 500 people in Aniak.

KAREN BREWSTER: Right. Well by 1977 it was getting bigger?

ARLENE CLAY: I'm sorry.

KAREN BREWSTER: By 1977 Aniak was probably getting bigger by the end of your career there?

ARLENE CLAY: Uh-huh.

KAREN BREWSTER: Yeah. What about a jail? Where did you hold prisoners?

ARLENE CLAY: Well if the troopers they would take them to Bethel, but they always ended up in Anchorage jail, okay.

KAREN BREWSTER: Well I was thinking of a case if before the trooper got there, was there ever a time that you had to hold somebody waiting for the trooper?

ARLENE CLAY: That wasn't any problem.

KAREN BREWSTER: Where did you put the person?

ARLENE CLAY: I just left them be home until the troopers come.

KAREN BREWSTER: I guess --

ARLENE CLAY: They would not run away.

KAREN BREWSTER: Where were they going to go?

ARLENE CLAY: Yeah, right.

KAREN BREWSTER: The way you -- the stories you just told it sounded like people listened to you and respected you when you said something?

ARLENE CLAY: Yes, they -- yeah, they did.

KAREN BREWSTER: Was it --

ARLENE CLAY: I don't know why but they did.

KAREN BREWSTER: Well that was my question. Did they always or --

ARLENE CLAY: Of course I had the authority of the Alaska Court System behind me, you know.

KAREN BREWSTER: Yeah. But they listened to you that -- when you first started, did you have to kind of struggle to get people to listen?

ARLENE CLAY: No.

KAREN BREWSTER: No, huh, they always did.

ARLENE CLAY: The Yupik people along the Kuskokwim they are not like any other Native people. They are different and very wonderful people and you know, they were on subsistence living when we first went there, but through the years the people have built

housing and some projects and they were told they had to move in, so, of course, it has been quite a few years now since any of them have been on subsistence.

KAREN BREWSTER: Uh-huh. So how did it feel as a white person being in that Native community? How were you treated?

ARLENE CLAY: There wasn't any problem. I -- I loved all of the Native people. Everyone was my friends and I had no problem with them.

KAREN BREWSTER: Uh-huh. Yeah, I have always wondered that a Native community with a white person as the judge or the magistrate how that relationship works?

ARLENE CLAY: Well I can't tell you about other villages, but it worked at Aniak.

KAREN BREWSTER: Uh-huh. And it sounds to me too that you got to know people and understand their way of life?

ARLENE CLAY: You had to -- you -- yes, you did. You had to know the culture and understand it because there was always the possibility that you had to weigh it against their (inaudible) before you sentenced.

KAREN BREWSTER: Yeah, you mentioned that one time about the beaver, the young man and the beaver and how do you make the decision about culture versus the law?

ARLENE CLAY: Well that was just one of the frustrations that the Native people had to put up with.

KAREN BREWSTER: But as you say you sometimes had to make decisions for sentencing like the moose -- taking the moose out of season example you gave?

ARLENE CLAY: Yeah, well he came in court and the jury turned him loose.

KAREN BREWSTER: Oh, that is right. That wasn't -- that was the jury. I was thinking that there was one case -- oh, I know, I think it was you were talking about where you sentenced -- you might sentence a young person to, you know, split wood for an Elder.

ARLENE CLAY: Well community service.

KAREN BREWSTER: Community service.

ARLENE CLAY: And that was one of the services that was much needed in the villages.

KAREN BREWSTER: So that is a very culturally minded sentencing?

ARLENE CLAY: Uh-huh.

KAREN BREWSTER: And I wonder how did the court system react to those kinds of sentences? Did they accept that?

ARLENE CLAY: They must have. I didn't ask them.

JOHN MURPHY: Can I mention something?

KAREN BREWSTER: Yeah.

JOHN MURPHY: I think -- I think one of the things that you used to regularly was take into consideration their hunting, fishing needs prior to --

ARLENE CLAY: Right.

JOHN MURPHY: Can you elaborate on that just talk about that a little?

ARLENE CLAY: Yeah. Whether or not they needed the meat, you know, and it depended on the time of year too.

KAREN BREWSTER: Uh-huh.

JOHN MURPHY: You would sentence them but then allow them to stay free until they --

ARLENE CLAY: Right.

KAREN BREWSTER: Until they had enough time to --

JOHN MURPHY: Uh-huh.

KAREN BREWSTER: Get enough food for their family while they went and served time or something like that?

ARLENE CLAY: Back in those days there was no work in the villages, you know, for the people and most the -- quite a few of the men folks would go into Anchorage during the summer and work for the railroad. And I know one of my defendants when he came in court and I sentenced him and he said well he was supposed to go to work in Anchorage the next day. And so I told him to go ahead because that is the only work he had and we would hold court when he got back. You had to do all these different things that it is not like just holding court you know.

KAREN BREWSTER: Not any -- not everybody who was a magistrate would have understood that?

ARLENE CLAY: Well I don't know. I lived in a Native culture and I did understand that. In fact, I lived it for a couple years when we first moved up to the cabin we went on subsistence living partly, so I knew quite a bit about it.

KAREN BREWSTER: Well the example you gave about the man who wrote the letter about changing his sentence and you said no I have a boat and I have a fishwheel and I do all those things too -- the fact that you had knowledge of the community and the culture.

ARLENE CLAY: Well you see the -- all the Native folks on the Kuskokwim knew me and knew how I lived, but the ones over on the Yukon just knew me as I came in to the village and that one person that I sentenced I think he had the idea that I was a woman and I was the Gussick, I didn't know about these things, but you see I did because I did them all myself.

KAREN BREWSTER: Right. So there is a benefit of having some local knowledge.

ARLENE CLAY: Right, yeah.

KAREN BREWSTER: I have wondered that about justice -- the justice system in the Bush and how it can work if people don't have that knowledge?

ARLENE CLAY: Well I can't answer that because I don't know.

KAREN BREWSTER: Well what from your experience and your thoughts the way you did it do you think that was successful it helped people?

ARLENE CLAY: Yes. I could -- yeah, I could help the people, you know, being magistrate and yeah. That is the way it was.

KAREN BREWSTER: And you mentioned being a woman, you know. I was thinking about you as a white person versus a Native person, but then you just mentioned being a woman too. Did you feel any difficulties or challenges with that?

ARLENE CLAY: No. Uh-uh. No. We only had one or two families that was really pro-Native that would sound off once in a while, but there was no problem. But you see the Native culture the women and girls are always submissive to the men and boys, so a woman being in a like a magistrate they probably didn't appeal to them very much, but most of them it didn't bother.

KAREN BREWSTER: Uh-huh.

ARLENE CLAY: And you know we were finally issued robes for our courts and of course when we were that lent much more dignity to the court proceedings.

KAREN BREWSTER: Uh-huh. Yes, you mentioned you required the lawyers to dress in formal clothing. Before you had a robe what clothing did you wear when you held court?

ARLENE CLAY: Well I just dressed up for court.

KAREN BREWSTER: But high heels and white gloves?

ARLENE CLAY: I'm sorry.

KAREN BREWSTER: High heel shoes and white gloves?

ARLENE CLAY: No. No.

KAREN BREWSTER: You did mention about the Native people and their cultures and their ways of doing things weren't always the way the court did things. Your example of the women not letting the men be called guilty. How did you overcome that or did you ever overcome that?

ARLENE CLAY: No it always existed, but they had to take it into consideration before you sentenced.

KAREN BREWSTER: Uh-huh. Well you certainly couldn't change what the jury decided? It sounds like some of it you learned along the way with the Natives?

ARLENE CLAY: That was an education.

KAREN BREWSTER: Uh-huh. You talked about the training you went to, the conferences.

ARLENE CLAY: I'm sorry.

KAREN BREWSTER: You said you went to some training with --

ARLENE CLAY: Oh, yeah. We had seminars in Anchorage once a year and in Bethel -- no maybe twice a year and all the magistrates from all over attended.

KAREN BREWSTER: Uh-huh. What kinds of things did they talk about in those seminars?

ARLENE CLAY: Procedures. Anything that a magistrate wanted to talk about -- needed help with. We had a Judge Connelly up in Fairbanks seeing that we are in the Fourth Judicial he was always on call. We could call at any time if we got stuck with something and even in the middle of court we could recess court and call him and he was always available.

KAREN BREWSTER: Yeah because you didn't have training as a --

ARLENE CLAY: No.

KAREN BREWSTER: Lawyer. So how did you know how to do these things as a magistrate?

ARLENE CLAY: I had the -- I don't know. I just did.

KAREN BREWSTER: Do you think there is something about your personality that made you a good magistrate?

ARLENE CLAY: Not that I know of.

KAREN BREWSTER: I was thinking somebody -- what makes a good magistrate? Somebody who is patient. Somebody who is understanding. I don't know.

ARLENE CLAY: I am sorry. I didn't understand that.

KAREN BREWSTER: That is what qualities make for a good magistrate? Somebody who is patient or understanding or strict, I don't know.

ARLENE CLAY: All of those.

KAREN BREWSTER: All of those. And you had all of them?

ARLENE CLAY: Apparently.

KAREN BREWSTER: You mentioned the -- talking to the Native Elders before you would make a decision. Can you tell me a little bit more about your relationship with the Elders?

ARLENE CLAY: Well I didn't have to do it so much on the Kuskokwim, but going into the villages on the Yukon I -- they didn't know me and I didn't know -- I didn't know the people over there as well, so it depended on how the village felt about their defendant. Like if he was a first offense, they would probably decide that maybe he shouldn't leave the village but if he was something that was continually getting drunk and causing trouble, they would say well maybe take him out of the village for a while. So then I would sentence them.

KAREN BREWSTER: Uh-huh. Did you notice successes in some of those cases?

ARLENE CLAY: Did I what?

KAREN BREWSTER: Notice successes if somebody was sentenced and you sent them out, did they get rehabilitated and they came back and --

ARLENE CLAY: Oh, no, no.

KAREN BREWSTER: It didn't work?

ARLENE CLAY: I'm sorry I --

KAREN BREWSTER: I wondered if when you sentenced somebody and they left the village. They went to Bethel.

ARLENE CLAY: Uh-huh.

KAREN BREWSTER: And they served their time, were they rehabilitated? Did they come back home and went on and never got in trouble again?

ARLENE CLAY: Well as long as the bootlegger existed and was supplying them they would be in trouble again.

KAREN BREWSTER: So it --

ARLENE CLAY: So it was an ongoing thing.

KAREN BREWSTER: So a lot of your cases dealt with alcohol?

ARLENE CLAY: Well ninety-nine plus cases were alcohol related.

KAREN BREWSTER: Uh-huh. Did that -- even from the beginning?

ARLENE CLAY: Uh-huh. I can't tell you the bootlegger's name because he is still in existence and still going to it.

KAREN BREWSTER: Yeah. We don't have a --

ARLENE CLAY: But he moved out of Aniak.

KAREN BREWSTER: Well that is good. We won't go into names though. What kinds of cases do magistrates hear mostly -- domestic violence?

ARLENE CLAY: Yeah. Never had any of theft. The people didn't -- they weren't people who would steal from each other, but beating each other up and that is violence.

KAREN BREWSTER: Violence was mostly.

ARLENE CLAY: On a gaming violation, but.

KAREN BREWSTER: Did you ever have to oversee a murder trial?

ARLENE CLAY: No. Magistrates are -- have -- they only -- misdemeanors are the only thing that a magistrate office -- court can handle. But we did have up in Sleetmute when I was called up there. John, do you remember when somebody was killed or you had to make a special hearing? Do you remember what that hearing was called?

JOHN MURPHY: I don't.

ARLENE CLAY: I can't remember either, but we had -- I was called up at Sleetmute one time for somebody had -- they had gotten shot and practically the old village went on a party down to some cabins just below Sleetmute and during the process of the wild party somebody got shot and so I had to go up and investigate that. So I held -- I forgot what the name -- special name of that hearing was.

BARBARA HOOD: Was it arraignment?

ARLENE CLAY: But to find out whether --

JOHN MURPHY: It was yeah.

ARLENE CLAY: He should be held responsible or whatnot. And so I held a hearing and people of Sleetmute came and all the ones that were at the party every one of them knew who shot the person, but when you got up into the hearing, not one of them would say

anything. So we couldn't do anything with the defendant, you know, finding out what. So I told them I said well any one of you people know who shot that person and I said you choose not to say so he will be living with you from now on and he will probably do the same thing again and any one of you may be the victim next time so, so be it, so.

KAREN BREWSTER: And what happened? Did somebody come forward?

ARLENE CLAY: No.

KAREN BREWSTER: No.

ARLENE CLAY: End of the -- dismissed the hearing.

KAREN BREWSTER: Uh-huh. I wondered about for you living in a small town like Aniak and being the magistrate when you had to make tough decisions and then you still had to still live with the people that you made those decisions about, was that difficult?

ARLENE CLAY: No, that wasn't any problem. In fact, I think the bootlegger was the only the - only person -- white person that came in front of my court, but no, the Native people they realize, you know, that they had done something wrong and they would come back a lot of times and thanked me for it. I had no problem with them.

KAREN BREWSTER: Uh-huh.