

## INTERVIEW OF MICHAEL JEFFERY

CONDUCTED BY KAREN BREWSTER

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TAPE 3 - ORAL HISTORY

KAREN BREWSTER: So now we can talk about the stressors or what has been most challenging or most frustrating for you?

JUDGE JEFFERY: Right. Well I am so swamped all the time. I mean I just feel swamped and like right now, you know, I made a decision, you know, in the last week to go to these -- to a couple of conferences on the involved Fetal Spectrum Disorder issues. But on the other hand I have got like legal work motions that need to be decided that are sitting there, you know, waiting for me. And then you get back to the court and you are slammed with all these hearings that they couldn't do while you were out of town and so you get slammed with those when you come back and then when are you supposed to work on these legal issues that also need deciding. Well it turns out there might be nights and weekends and when, you know, when you are raising a family or my wife and I now. My kids are out of the house, but, you know, there is, you know, there are times when I would like to be spending more time in the community or, you know, with family and stuff than I can because of the demands of the job.

And, of course, we are on call and in the bigger cities superior court judges do not -- this is not part of their life because there is so much work that needs to be done along these lines that the court system hires people to do that. You know they are called committee magistrates like in Anchorage and they work 12 hour shifts and they are always available to do these things. Well like all over rural Alaska we are on call half the time. I mean the magistrate is on call part of the time. The judge is on call part of the time. We -- we use -- we train our law clerks as deputy magistrates and they are on call once a month. And when you are on call, you may -- you don't know what your weekend is going to be like. I mean I call in at least Saturday morning and find out what is going on. Sometimes nothing, great and then maybe I can work on some of those motions or do other things. But sometimes, well Your Honor we got five. Five, you know, we have got something like five cases. That is because there is you open up the courthouse, you -- you develop all the paper works, assign case numbers, take in the complaints and then hold the hearing, do the bail paper work out, distribute everything and even if you only have one or two cases it is a couple hours and if you have five, you might be over there five or six hours on your Saturday and maybe on the Sunday and then go back to work Monday morning. So that can get to be stressful. You know, you are working seven days a week. Sometimes that happens and then also when you are on call, you are on call for the search warrants.

Now what judicial officers face is nothing compared to what doctors or EMT's face, but nevertheless sometimes the phone rings at three a.m. and you got to go down to the court and remember all the search and seizure law and do the best you can with this warrant and, you know, it is a very important part of the job when it is needed. And then I look

around, for example there are judges who somehow like there is judges all over the country, not many, but that are very much up to speed on this FASD issue and some of them are very active and they are starting organizations and doing all these things. I am just thinking I don't have time to do that. I mean I can see I mean I am sitting there imagining yes, you know, I could do this. I could start committee meetings or I could go to schools more than I do or there are all these others things I could do, but I just have to honor the fact, you know, I just don't have the time.

And one thing that I wanted -- I wish we had in Barrow is a Youth Court. I mean that is something I have got a lot of information in my office about Youth Courts. I have presented at Youth Court Conference once or twice. I think it is a wonderful program, but I just can't -- I can't be the main person. I would be glad to help, but there is no one else at the moment that is ready to do that and so it has not happened. And so there are frustrations like that.

KAREN BREWSTER: So how do you manage to create the balance and de-stress your life?

JUDGE JEFFERY: Well, I, you know, part of it is being active in other things. I mean when we are having, for example kiviġ is this Eskimo dance festival that we have like once every other one or every two or three years and it brings in dance groups from all over the arctic and also like Canadian arctic and Eastern Russia sometimes too. People have no idea what goes into this because the dance groups go through a lot of effort of developing new dances or developing -- bringing up ones from the past that they haven't been doing for a while but now they are and the practices can last several hours several times a week. And there are times like if the group is practicing to go to an event out of town that I am not going to, I usually just don't go, but kiviġ is right there in Barrow and yeah, you just do it and so when you are there, two or three hours, (inaudible) you are not, you know, this is something else in the (inaudible) and so that is something.

And then we have a Rotary Club. You know, there are a lot of things along with that that I am involved with and then church activities and stuff. And then I do some volunteering in the schools just, you know, just something I have been doing like reading to fifth graders once a week.

KAREN BREWSTER: All right.

JUDGE JEFFERY: For example, and then like a mentorship relationship with the middle school I go over there once a week with a number of students and so all of that is kind of keeping a balance. I mean if I -- if I were, you know, living alone, not involved in the community, going to work, going home, reading novels or watching TV or whatever I would be doing, it is -- it would be a lot harder to keep it together, but the way it is now. But the thing is you don't have very much down time.

KAREN BREWSTER: Right. You mentioned that you are mentoring students. It makes me wonder who some of your mentors along the way may have been, people who have inspired you?

JUDGE JEFFERY: Right. Well as I say we have to honor Vic Carlson at the beginning because he took a lot of calls and that was a big help, but, you know, we have already talked about our colleagues you know helping each other. But, you know, there is certainly Jay Rabinowitz is one. He, you know, he was based in Fairbanks and so he, you know, and as I said I mentioned -- met him when I first came to Alaska. But he had a level of not only of judicial -- of skill in and, you know, skill, but he also was compassionate and saw the big picture. And I keep remembering one time he sent out like a memo or something like

that too. I think it went to all the judges or something, but he was talking about there was some either a federal case or a federal law, but it was going the wrong direction, you know. It was -- it was dangerous. It was a dangerous precedent in the country sort of and he alerted us to that and, you know, I just really, you know, he is kind of keeping his eye on the big picture as well as doing his work, you know. So and it was so one time when Sadie Neakok was having her retirement, he flew up from Fairbanks to attend because they had had relationship for all these years, you know, and stuff.

So he came up, but we are standing in the buffet line and he kind of looks -- I happened to be behind him and he kind of turns to me and says well counselor, you got anything for me to handle while I am here in town and, you know, again Legal Services issues and I am thinking, oh, you know, and then I thought yes I actually have something. There was like this woman that had a default divorce and so I told her, you know, he would handle it and I just called her up and I said you won't believe this, you know. And she can't really appreciate, you know, how amazing this is, but she was divorced by a supreme court justice you know.

But another one I would really like to mention is Russell Holland. He is a federal judge and now a senior status, but again a very humble person when you see him. I mean we have these judicial conferences and, you know, you see different people. But also the opinions of his that I have read here is someone who is trying to communicate in a -- in an understandable way, you know, and I say well yeah look he does that too, you know. So that has been an inspiration for me to try to do that.

And then, of course, in terms of the FASD issue what the Canadian judges are doing. I mean they are so far ahead of us in realizing the issue and trying to deal with it. I mean I am just when I have gone to these conferences in Vancouver. I am hoping to go later this year to another one, but, you know, I am the learner. I am just, you know, I have something I might share, but these guys are the experts, you know, so, anyway, yeah.

KAREN BREWSTER: I am wondering about your experience as a non-Native judge in a mostly Native community and how that has worked or hasn't worked for you and if you felt you have had experiences with prejudice because of that?

JUDGE JEFFERY: Oh, it has worked for me, but again I was blessed with having already lived in Barrow for over five years before I became a judge. I don't know how it would have all played out if I would have come in not knowing the community, but as it was I was already part of the community. I was already in the church and I was already doing a lot of these different things. I was already in the dance group by that point and so, but I don't forget that I am -- that I was not born in Barrow. I am a non-Native and, but, you know, I had lived in India for almost five years before I came to Barrow, you know, and I had lived, I didn't mention earlier but I spent a summer in Hong Kong one summer on a volunteer program and especially in India and Hong Kong you stand out. You know there is no doubt that you are, you know, a non-Native person or Caucasian person in these environments and so a lot of those kinds of issues, a lot of that -- a lot of that cross-cultural stuff had been burned out of me long before I came to Barrow. And I mean I think all that time in India, for example really helps in relating to getting along in Barrow. And to value, you know, on the one hand value my upbringing and what I can contribute and so on, but also realize that I am not a local person, there is a lot of stuff I don't know and that is still true today and that to be humble and just realize that is the situation and I

am not a local person. I am a long-time resident, but I am not a local person and there is a difference.

As far as, you know, prejudice, I don't, you know, we don't -- that is not really something -- I wouldn't -- that is something that I am seeing. It is just that I realize -- I mean I honor and accept the fact that I am not -- I wasn't born there. I know that and I need to be diffident and, you know, like we have the choir at the church, for example and, you know, I am just part of the group and if there are some issues there, I am letting other people take the lead and so on. So, yeah, that is the way that kind of plays out.

KAREN BREWSTER: I do know that at some point in your career you had a retention issue.

JUDGE JEFFERY: Oh, the legal case?

KAREN BREWSTER: That with you being retained as the judge, yes.

JUDGE JEFFERY: Yeah.

KAREN BREWSTER: Can you talk about that and what you think --

JUDGE JEFFERY: That had nothing to do with --

KAREN BREWSTER: It is not related I know.

JUDGE JEFFERY: Not related.

KAREN BREWSTER: It is a new question.

JUDGE JEFFERY: New question.

KAREN BREWSTER: Retention.

JUDGE JEFFERY: Turn the page, right.

KAREN BREWSTER: About the retention process and what you think --

JUDGE JEFFERY: Right.

KAREN BREWSTER: And what you think about it in the state, because I know you have personal experience?

JUDGE JEFFERY: Yeah, well first of all, as far as the way that Alaska selects judges, I am such a fan. It is great. When I -- I remember one time I was at a National Judicial College attending a course and there was a judge there from Miami. She says I need to raise a million dollars every four years to keep my job she says to me. And I am thinking to myself if there is anything like that, there is no way I would do this job, you know. And even at the conference where I just was, you know, there is in so many states, you know, there is a big political contest and everybody is raising money and where are you raising the money from? From lawyers mostly and it is -- it is just not a good system. Whereas, you know, here you apply, you get screened, names go to the governor but the governor has to pick from that list and then from then on it is between you and not just your local community but the entire district. So for me it is from the Canadian border all the way down to, you know, the Yukon Kuskokwim Delta. I mean the whole -- the Second Judicial District this huge land area. And then but it is just yes or no.

And so I am not raising money for a campaign, you know. I mean you pay some fees and you would have to pay some fees and every time you on the ballot for retention you have to -- you have to go through this big process. It is almost like being appointed again. You have to write essays about your term. You have to give them the names of all the attorneys that have been involved and cases that you have had recently. And then they send them letters.

KAREN BREWSTER: How often does a judge come up for retention?

JUDGE JEFFERY: Well for superior court judges the first time is after four years and then every six years after that. And so I have been on the ballot many times since 1982.

KAREN BREWSTER: And there was a case where there was a problem with that and there was a lawsuit?

JUDGE JEFFERY: Yeah, a little problem. And what it was is I had done all of the hard stuff for being retained. I think this in the '07 election, done all the hard stuff. We run the essay, did the -- did the names of the lawyers. We did the -- all the things that you have to do. They check your credit record. I had done all that, but in addition to that you have to send in a one page form to the Division of Elections with I think \$35 or whatever the fee is simply saying yes I would like to be on the ballot and I never send the form in. And I have a very good reason why I didn't the form in at the last minute, but I have no excuse for not having it sent it in several months in advance. There is absolutely no reason that couldn't have been done. It happened at the moment just toward the deadline. I was out of town actually with the church youth group out of state and then I came back and we had a conference in Barrow right there. I had files stacked all over the office and unfortunately I had gotten the reminder letter, but the staff had buried it at the bottom of a two foot high stack of files. And so it took me about a week or ten days before I had worked through those files and then I see this letter. Oh, you know, then sent it in.

So I was on the phone with I mean -- I -- I knew it was serious and on that Monday morning -- it was like on a Sunday that I saw this. Monday morning I am on the phone with an attorney and we are just trying to figure out what to do. Well there was a woman judge in Anchorage too that had the same problem. And we kind of coordinated later, but at the beginning we weren't, but basically what we both ended up doing is doing it late, you know. I say sorry we missed the deadline. Here is my form. Here is my fee and I hope that, you know, this will be acceptable. And the Division of Elections in both cases said no and we will not put you on the ballot. And, of course, if you are not on the ballot, you lose your job, so it is serious stuff.

So there were different ideas, you know. One way I could have handled it would be to have said yeah I messed up, you know, and I will just -- I just won't be on the ballot and I will try again to become reappointed. But instead -- it is (inaudible) to say this, but instead we sued. Our point was that look this is apples and oranges. We are aware of the cases where the supreme court has said that you must be very strict about the deadline in elections, political elections, you know. If you are five minutes late, you are too late. And, of course, with political elections it is very important who is on the ballot. You don't know who it is going to be. And, but our point was judicial elections this is not the case. I mean everybody knows who is going to be on the ballot, you know, who the judge is who is going to be running for retention. And so if you are a little late, you shouldn't -- you should be able to still put it to the voters and the voters, of course, if they don't want someone to continue, can still vote someone in, but at least give them the chance. So that was our basic point. I mean there are other arguments as well and I won't go into all those, but that was the basic point.

And, but our first point was put us on the ballot. I mean we can argue later about whether or not that should be honored, but at least put us on the ballot so that we have at least the chance to keep our positions. And the Division of Elections said no, we are not going to do it because we got these firm directions, you know. And so we filed, you know, the case and the cases and -- and I felt for the -- so hard for the superior court judge in Anchorage that had the case, you know. I mean it is a very hard position to be put in, but anyway we had oral argument, did the whole thing and he -- and that particular issue

really was pretty clearly -- we had the better position. I mean yes you keep the status quo. At least give them the chance to be on the ballot and then we will sort it out later, you know, that was pretty clear and that is what he held. And that was not appealed and we were on the ballot and, of course, we both got retained by a pretty significant margin. So in other words the voters, you know, said yes, they should continue.

But as everybody realized we still needed to litigate the issues and so in the end the superior court judge in Anchorage agreed with us that these are two different things and we should recognize that and at least in this instance, maybe in the future it would be different more noticed or something like that, but at least in this instance, you know, it should be allowed and particularly because even though we hadn't sent in the form the Judicial Council since we have gone through the whole process and she had also had given notice that we were cleared to be on the ballot way before the deadline. So, you know, there are a lot of arguments there.

Well the state appealed to the supreme court and, of course, in the meantime I am still keeping the job, you know, it is still being litigated. The woman judge in Anchorage did not -- decided to leave the bench. She may have wanted to do that anyway, but, you know, I'm still, you know, was ready to continue serving in Barrow, you know. So I continued working and it took again very hard. This is a very hard issue for the supreme court to deal with and it took them about a year. And then finally they came down with a decision. And I have actually -- I have talked to the justice who has since retired that wrote the decision and I told -- I told him I so agree with the ruling. They did the absolute right thing for the state because what they said was those judges are fine judges. They certainly can keep their job, you know, they can reapply and so on, but we are going to enforce this judge -- this law against judges as well as everybody else the same and they were late, end of story, they are not on the ballot.

And that is just what needed to be said. I mean we had our arguments and looking back on it as I say I, you know, it would probably have been better to just not have gone through the whole thing. It certainly was educational for me I mean the whole process, but -- but I think it was the right decision that was made.

So how did that play out? Well that means 90 days later I had to retire. I mean by law I was retired and so they -- we had a little retirement party there at the court. It was very low key because the reality was they needed somebody to be the judge in Barrow and I was going to reapply and what is going to happen in the meantime? It is me.

KAREN BREWSTER: You are now acting judge.

JUDGE JEFFERY: Now pro-tem.

KAREN BREWSTER: Right.

JUDGE JEFFERY: So I was a pro-tem judge and so I learned and I had to make -- there are certain decisions when you are retiring that you make and they made it very clear to me even if you are reappointed, no one knew for sure, but even if you are reappointed, these are the, you know, you have made the decision about like some benefit plan or something like that. You have made that decision and that stays with you. So suddenly my wife and I are thinking gee do we need the long-term care insurance and all these kinds of things and so --

KAREN BREWSTER: You were what -- 55 or something at this point and you were not near retirement age?

JUDGE JEFFERY: Oh, no, no, no, no. I was no, but I was over 60. I was more like 64 or somewhere in there. But I mean I could have retired. I mean the way the judicial retirement system worked I could have retired well before this, but I didn't want to, but I could have.

KAREN BREWSTER: So you got reappointed somehow?

JUDGE JEFFERY: Well anyway I was pro-tem judge and this is very interesting because it meant, for example I could no longer supervise the judicial assistant because I was a temp, you know, I couldn't do that. So I wasn't signing her time sheet anymore or any of that. Various court committees I was on I was off them because pro-tem judges don't do that and so on, but otherwise the work was just the same, except I signed pro-tem, pro-tem, pro-tem on everything and then I applied and went through the process again and the Judicial Council and all this stuff and they -- and they found two people qualified and then I got appointed and then took up being a full-time judge again. But it was interesting because, you know, I was on retirement check and all the things for those months and so I kind of got a taste of what that is going to be like, you know.

KAREN BREWSTER: And this is what 2007 you said, somewhere in there?

JUDGE JEFFERY: Yeah, well this would have been I think I am talking '08 at this point that I went through that period. I think I was reappointed in '08 and they, you know, I am sure this will never ever happen again and, of course, given the case and the experience that they have had they are doing a very good job now of reminding everybody about all these things I mean the court system and so on that, but they, yeah, now I lost the train of thought there.

KAREN BREWSTER: It leads me to the question I had for you which is given your age other judges your age have retired.

JUDGE JEFFERY: Uh-huh.

KAREN BREWSTER: And you are what in your late 60's? I don't know how old you are.

JUDGE JEFFERY: Yeah, late 60's, right.

KAREN BREWSTER: And many judges your age have already retired.

JUDGE JEFFERY: Correct.

KAREN BREWSTER: And you have not.

JUDGE JEFFERY: No.

KAREN BREWSTER: Why have you chosen to continue to serve on the bench?

JUDGE JEFFERY: Well the way Esther and I feel about this is it is we are there. We were I mean the workings of the cosmos, who knows, we are kind of called to be there. We are there and we are both ready to leave if we were called to leave and maybe in some way maybe it could be health or it could be something, you know. But on the other hand I value the role that I am playing in this community and I am not done yet. I mean there is all kinds of things, especially in the FASD issue, but everything else. I mean there are ways I still would like to improve the way we are doing things and, you know, could we get into more (inaudible) sentencing sometimes in juvenile delinquency cases. I mean this is a very time consuming way of doing something and, but in certain cases maybe we could do that. Well we have never done it. Could we start doing that? And so there is just -- I just feel at the moment that this is where I am supposed to be and then, of course, when by statute you can no longer be there, well, okay, you know, that is the end of it. At age 70 you have to retire. There is no question about that, so yeah, that is the feeling.

And the other thing is the realities of, you know, the wisdom in today's economic climate and everything is you are better off to keep working, you know, just to keep not drawing down things before you have to in terms of loans that are out there and all kinds of things, so there is that aspect too, but that would totally be if we didn't feel that this was the place we needed to be at this time we are just going to be staying for these other reasons, but that we do feel we are supposed to be there.

KAREN BREWSTER: Do you feel like you have some sort of a legacy that you are leaving behind or some biggest accomplishment you have made in your career working out of Barrow?

JUDGE JEFFERY: Sure.

KAREN BREWSTER: And what would that be?

JUDGE JEFFERY: There is some sort of legacy, but I don't know.

KAREN BREWSTER: You don't know what it is yet?

JUDGE JEFFERY: Well, yeah, who knows, you know, but basically, you know, as we have talked about earlier, I had this unique advantage of having been there already, you know and then taking the, you know, changing roles into being the judge but having all this involvement and all this stuff that I had already been doing. And, you know, I suppose the legacy is -- is the value of having that, the value of caring for the people that you are working with and on the hand, I mean I try to, you know, I went to a very good law school and I have very high standards for myself in terms of the kind of quality of the work that I do and I will go through draft after draft after draft after draft of an opinion, until, you know, and it is a very big help to have the law clerk help edit it, but at least in my court I am writing the opinions. It is not something I am handing off to the law clerk to do most of the work. I know this is my opinion, which is time consuming, but -- but so the idea is a combination of trying to have absolutely excellent quality of work as well as compassion and involvement in the community. But I don't, you know, whoever comes after me -- I mean they are not going to be able to be just like me because I, you know, there is just this weird constellation of background that I have and no one should expect that the next person would be just like I am.

KAREN BREWSTER: Uh-huh.

JUDGE JEFFERY: And, of course, you know, like I said earlier, any judge -- there are people who would be saying yeah let's get, you know, it is fine for him to go now, you know, I have been there long enough or something like that. But I still I feel that most people are very, you know, glad that I am there and would want me to stay as long as I could so.

KAREN BREWSTER: Are there any particular cases that stick in your mind that were big cases or influential cases that you feel like your decision has had an impact?

JUDGE JEFFERY: Well I can. Sometimes it is a brief impact. There was one case where suddenly I am involved with the Tribal Court operations in the Fairbanks area and in Barrow. A father -- they had the Tribal Court down there was dealing with a child custody issue and the father went down to have his say and they basically shut him out. They would not allow him like into the room or stuff like that and went ahead and made their decision. And so they brought a state court case saying you should not -- this decision should not stand. I mean it cannot be given effect and it was a very interesting issue because what are -- I mean what role does the state court have in reviewing, you know, separate government's operations in that way. And I finally realized that it was -- there is something called the Indian Civil Rights Act and that's -- that's what governs and

it does set some limits. And so I, you know, using that, which is something that applies to tribes. It is a federal law applying to tribes and using that I did indeed say that this -- this couldn't stand and it was redone or I forget exactly how it all turned out.

And there was a period of time where that was kind of a decision of some importance. It made it into some of the continuing education materials and stuff and then, you know, things changed and maybe there was a clarification of law. It is non-issue anymore, you know, so it is no longer a big thing like that.

But there was one -- I mean I remember one incident where and I -- there can be, you know, I'm up there with this very low volume of civil litigation. I don't really know some of these issues I mean arguments are being made to me or, you know, some of the issues that come up. If these are hot topics in the big city, you know, I don't know. I am just seeing this thing and I see that there is no, you know, supreme court authority on it and so on and so, you know, I just give it my best shot and then sometimes it turns out that that is the one that got, you know, appealed to the supreme court to make the law or something like this.

But there was a great instance where Judge Cranston down in Kenai, who has since passed away who was another one speaking of people that I really value their example Judge Cranston is another one. He -- he used to be an attorney involved with the North Slope Borough and so on. He would come to Barrow, but the thing that I, you know, again someone who really cared about position, a very humble person. After he retired, he maintained involvement with the Youth Court that they had down there. He maintained involvement with Rotary Youth Exchange and he was running bicycle tours in Italy. I don't know I just couldn't believe all the different things that he was doing and just to show you here is a man who is really, you know, that is the kind of retirement, yeah, that is the thing to be doing, you know, maintaining serving the community and doing different things.

But anyway, there was a -- there was a case either there were two related cases or something but I had made a ruling on some issue. I forget what it was and then they tried to bring up similar arguments in front of him down in Kenai and, you know, second bite of the apple sort of thing and he said oh, no, you made your arguments in front of Judge Jeffery that is the ruling, that is what we are going with, that is it, you know, so.

But I have had some cases I think one of the nicest time -- compliments that the supreme court every so often does is they will attach the trial court's opinion to their opinion and - - and they did that with me once, which -- which I, you know, I was just very much appreciating because they totally don't have to do that. I mean it wasn't at the point -- there have been supreme court cases that just basically say we agree with the trial court opinion, see attached, and then edited it into their, you know, kind of way of doing things. And this was not like that, but they still included my opinion, which I thought was -- was -- was great.

But I don't think, you know, we haven't had I think the legacy is more in the approach than some particular legal issue. I mean we haven't really talked about and I think it is worth talking about is state court and Native Tribal Courts.

KAREN BREWSTER: That was my next question.

JUDGE JEFFERY: Next question, okay.

KAREN BREWSTER: Next question was Tribal Courts, so tell me about that.

JUDGE JEFFERY: Okay, well here we go. The Native village of Barrow has gotten jurisdiction over child welfare cases in Barrow, which means that the current reality is that the state court and the state social workers are not dealing with these cases at all or rarely. There are some families -- I mean first of all, if they are a non-Native families or some families which for one reason or another has just refused to be involved with the tribal court then it would be referred out to the state. But by and large we don't deal with the Barrow cases. But there was an interesting period of transition there and I can't give dates, but I am remembering that there was -- at the beginning, you know, after the Indian Child Welfare Act of 1978, the tribal governments could what is called intervene in the state court cases and that is still the way it works with the villages on the North Slope. They can intervene in the child welfare cases for tribal members and what they do is they contract with regional nonprofits in Barrow and so they will be able to send the people over. Sometimes it will be on the phone from the village, but usually they have the local nonprofit people go and appear. But it is possible for a tribal government to say we want to take jurisdiction back over this and so there was an activist who is not an Eskimo person, although not Caucasian either, that was working for the Native village of Barrow and made that application -- I mean with support of the tribe that they made that decision. Well years went by, maybe a couple years I don't know and then suddenly the letter arrives saying yes, you know. You have it. Well, of course, the person who had energized this whole thing had left town.

KAREN BREWSTER: Do you remember that person's name?

JUDGE JEFFERY: It is a relative of the Danner family.

KAREN BREWSTER: Okay.

JUDGE JEFFERY: And I again don't want to make a mistake so I won't say.

KAREN BREWSTER: Okay.

JUDGE JEFFERY: But it is one of the Danner family, so she is Native Hawaiian and she, you know, as I say, she was doing a great job.

KAREN BREWSTER: So now Tribal Court --

JUDGE JEFFERY: Right, but the problem was is that she had gone and the people that were there at that time were not ready, but there is federal money to help implement this kind of thing and so what -- there was an agreement made between the tribe and the state social workers, the Department of Health and Social Services that they would continue to do the cases. However, the tribe could intervene any time that they wanted which was always the case, but also that they could take the case back if they wanted to at any time. So that was the first thing.

And then there was all this training going on and so as their tribal court began to get more trained there were -- like there was one case where there was a big fat file in my court, the termination of parental rights case, and at least one if not both the parent's attorneys said let's just get -- blast this out of state court. Let's put it in the Tribal Court, you know. So they made an application to transfer juris -- that the Tribal Court should take that jurisdiction. And basically under the Indian Child Welfare Act it allows the tribe to have those powers, but it also has limits, especially on transferring cases back and the -- and one of those limits is if there is already a big fat file already in the state court you just don't bring it back. But I love the approach that the tribe took. They at that point they -- this is no longer the case, at that point they had like a consultant that was kind of like the chief judge and then there were -- who was Native -- Lower 48 Native and local people

with her and -- but we had -- we had a hearing. It was on record and stuff that their point was -- the way they put it was part of our tribal law -- tribal heritage is that we honor our agreements and we have agreed that we would not, you know, take this kind of case back and so we refuse -- we declined jurisdiction, which they always have the right to do and I just love that. I mean I thought that was great, but we have a lot of respect for each other. I mean there is really -- we don't -- sometimes they will come to our legal providers meeting. I was even invited a couple of times, including last week, to become a member of their Tribal Court Committee, which would oversee the operations of the court and how well it is following their -- their rules. And I just -- I emailed back and I said, you know, I just can't do this. I mean it is just not appropriate, you know, for a state court judge to have that kind of role in the Tribal Court.

KAREN BREWSTER: So the Tribal Court is currently functioning in --

JUDGE JEFFERY: Oh, yeah. Yeah.

KAREN BREWSTER: And how do you see its effectiveness versus the state court effectiveness in those -- their child welfare cases?

JUDGE JEFFERY: Well it is hard for me to say because I mean I can see there are advantages that the state court has. I mean, of course, we have the clear state laws that everybody is used to. We have the right to counsel, the parents have. We have the ability to store information. I mean we are all set up for that, you know, and now, of course, it is all digital, but we are storing all this information so it is easy to -- and then there is again paid social workers. Well, you know, with the tribal sometimes there is problems with staffing. I don't know if their judges are paid. I think maybe they are, but maybe not, I don't know, but there is problems having the time to do it. I frankly just don't know because those cases are out of the state court, so I am not following them. I don't know how well they are turning out. I am sure that it is more understandable what they are doing than what the state court does and what the state court social workers do and as I am sure it is more comfortable because they are working with other Inupiaq people and I am not aware of any big problems so that means it is probably a good thing, but I don't -- I don't know for a fact. I mean I don't -- I am not, for example I am not seeing cases that say to me oh this whole thing is falling apart, you know, it is not working, we should do it in the state court or something, not seeing that kind of a case. And so as far as I am concerned, it is -- it is a big positive because just in our workload it is helping the state court actually. I mean we would have a very noticeable increase. I mean the social workers and the court if we were dealing with all the Barrow cases.

They have -- the one time where we really intersect is that they have a program for minor consuming alcohol cases where the state court and this is by state statute can refer people to the Tribal Court program and then if they complete that program it can be dismissed in the state court records. And we are doing that and they have a wonderful program and the thing that is neat and I haven't, you know, looked at this recently, but the last time I did they brought in I mean they had like sitting on their panel they had tribal judges and the juvenile probation office, the state, you know, like a state social worker would be involved in that too and they bring in all this expertise, which I thought was great. I don't know exactly the way it works right now, but. So I think -- I think at, you know, in Barrow there is not -- there is not the kind of friction or, you know, stuff that there sometimes there is in other parts of the country and maybe parts of Alaska, but, so yeah.

KAREN BREWSTER: Were there any other topics that you want to make sure we talk about that I haven't asked you about that come to mind?

JUDGE JEFFERY: I am sure there are, especially when I think about it tonight or tomorrow. Why don't we pause for a minute?

KAREN BREWSTER: Okay. Okay. Can you tell me about what it was like learning to be a judge and what you had to learn?

JUDGE JEFFERY: Well in learning to be a judge when I started was more difficult than it is now. I just -- I just love the level of training that is given to new judges over a period of three -- three years. They have special conferences where they only pull in the new judges. The new judge is assigned a mentor judge and there is more materials available that the judge -- judges can use as a place to start with their running a hearing and stuff like that. So there is a lot of materials, but back in 1982 it wasn't quite so much like that and it was kind of like you were -- you were just sworn in and go for it. There were some what are called, you know, some scripts and things that people could use just to get an idea of how to do certain kinds of routine hearings and those were helpful at the beginning, but there just wasn't a lot of training.

You really had to just call colleagues and then, of course, the court system does have one or two training events a year and then that was a time to see all your colleagues and also get that kind of training. They also required that you within the -- after you have been a judge for a few months, go down to this place called the National Judicial College, which is at the University of Nevada Reno, but what they do is they have this facility there and then they bring in judges and other trainers from all over the country and then judges from all over the country and they have the courses and then everybody goes home, but it is -- it is a real service to the smaller states. The bigger states have their own training programs, and so like I did that and that was very helpful.

But -- but part of this is appearances and just the way you do things and like when I was first appointed, I mean literally, really at the beginning when I would walk in the courtroom I would be grinning and where my head was at is I can't believe this. I wear this black robe and, you know, everybody is standing up and this is so weird, you know, and then it suddenly hit me and no one said anything, but it suddenly hit me that there is another way of looking at that and that would be oh, just look hey he eats this up, you know. And so and I thought, you know, that is a very possible reaction and so I now come in with a somewhat firm, you know, maybe a slight smile, but not -- nothing more than that, but that is the reason. And we talked earlier about how during hearings you have to, you know, make sure if you are feeling emotional whether in a sad way or maybe something is too funny, but you are not going to do that. Of course, obviously, especially in a small court there are times when we all laugh at something going on, but if there is something like I -- only I know how funny it is and nobody else would I mean it is very important that you don't prejudice anybody and so you go out in the hallway and stuff like that.

And then I have been to different -- we have some training events. I mean it has been very, you know, sometimes where they talk about oh -- way -- I mean I have seen videos, for example of judges where they are trying to do like paperwork that is connected with the hearing or maybe other paperwork, but it looks terrible because people are talking and the judge is just there writing about something else and handing papers to somebody. And just seeing that on video has helped me to make sure that I, you know, don't do that.

I mean I will explain like sometimes I do write out like the bail order or something during the hearing, but I explain why I am writing out the bail order and then I have a laptop and I am taking notes and you know, it is kind of obvious what I am doing, but sometimes I will explain I hope this doesn't bother anyone. But I -- like in a jury trial I have to do this. I mean the jury -- you have got 12 people that are going to decide something, but I have got to keep track of what is going on and, of course, it helps me stay focused too. So as I say, now there is a lot more I really value the effort that is being made to train the judges. That is so great.

KAREN BREWSTER: We only have a few minutes left, so why don't we go into a little bit the role of the magistrate and how in a small -

JUDGE JEFFERY: Okay.

KAREN BREWSTER: Court like yours how that magistrate and the judge work together on that all?

JUDGE JEFFERY: Right. Well basically there is a jurisdictional issue. The superior court judge and the model in most of the rural towns like Barrow, Kotzebue, Nome, Bethel, well Bethel is a different case, but Barrow, Kotzebue, Nome, Dillingham, Sitka, Ketchikan, well maybe not Ketchikan, but Sitka and various others is you have one superior court judge who is called a -- who is a general jurisdiction judge, who can handle any kind of case, from murder to traffic ticket to multi millions to a small claims, anything. And then you have limited jurisdiction magistrates who are dealing with civil cases up to a certain amount and the misdemeanor crimes and then the serious felony cases only at the very beginning and, but praise the Lord, the -- most of the cases are in numbers are indeed these less serious cases, good thing. And so that means that the magistrate is touching a lot more people than I do and, of course, I really realize that when the magistrate is on leave, there are times -- now we do have a system set up where we train our law clerks as deputy magistrates and they do have jurisdiction during the work week if there is no other judicial officer available, then they can go in and do some of these hearings, which is a tremendous help when the magistrate is out of town because I might be in a trial or who knows what and yet there is these other hearings can keep happening because the deputy magistrate does them. When they are both gone, it might be that it is well wait in line we will get to your domestic violence petition at five or six at night or something, because I can't do it before then, you know.

KAREN BREWSTER: Your case load goes up significantly?

JUDGE JEFFERY: My personal, yeah and the thing that happens is we can keep it together with the things that have to be done, but anything else, for example legal issues that need to be decided, you know, and written out and maybe a 30 or 50 page opinion or something that is not happening at all. And so what happens is all that stuff just sits because I am just doing all these other things. But the magistrate plays a very important role and it is very - - if the magistrates -- I mean I don't like sit and watch them. I (a) don't have time and it is a little weird. The magistrates are actually evaluated by the presiding judge now and not by the local judge. He would come over, he or she, depending on the district, but.

KAREN BREWSTER: Is there a difference -- some magistrates have legal background and some don't, is that correct?

JUDGE JEFFERY: No, not now, no. The magistrates are all law trained.

KAREN BREWSTER: Now, okay.

JUDGE JEFFERY: Even though by statute it is not necessary, but the work is so complex that that is the way it is now.

KAREN BREWSTER: But in the past there were non legal ones?

JUDGE JEFFERY: Correct, including Sadie Neakok.

KAREN BREWSTER: Right.

JUDGE JEFFERY: For example, who was fantastic, but it is just so much more busy now and it is so much more legal and I don't know it would be very hard I believe for a non law trained person to become the magistrate. But I just wanted to say that I mean it is a very critical part of the way the whole thing -- the whole justice system works is to have that -- that second judicial officer. It is really important. And by the same token when I am out of town, there are certain things that just have to wait until I get back. There are certain things like I did on this trip I do by phone. There are certain things that one of my colleagues might do and then there are other things that the magistrate can do at least some of it as what is called a master, the standing master, and then it would be signed off and approved by another judge.

One thing I wanted to mention also about the way I do things because there are some judges, superior court judges, who do not do juvenile delinquency and do not do child welfare cases. Those are all done by the magistrate or a standing master or something and then they simply sign off on them. Now in my view those are superior court issues and I am a superior court judge and it should be handled at the level of a superior court judge. And so -- and so I personally do the child welfare cases and the juvenile delinquency cases, unless I am taken off the case for some reason and then another superior court judge would take over or I am out of town or something like that. But I feel pretty strongly even though it is very time consuming to do this that this is the right way to do it and I -- I enjoy being involved in mostly -- sometimes it is very stressful by being involved in these cases so.

KAREN BREWSTER: Well that is great. Thank you very much for your afternoon. It has been very --

JUDGE JEFFERY: This was great. Fun to talk.

KAREN BREWSTER: It has been very educational.

JUDGE JEFFERY: Yeah, fun to talk, thank you.

KAREN BREWSTER: Thank you.