

THE ANATOMY OF AN UNJUST AND TRAGIC VERDICT IN JUNEAU, PART II

By David Ignell²

The jurors who convicted an innocent man were not given an opportunity to know who Mr. Jack was as a person. It's doubtful they knew much about his Tlingit culture and how his responses to questions might be misunderstood.

Mr. Jack and his four older sisters were raised by their parents in a small modest house in Hoonah. As a young man he spent a lot of time out fishing with his grandfather, a man known for his respectfulness, honesty, and being a great teacher.

Mr. Jack learned that it was disrespectful to look older people and those in authority directly in the eye while speaking. From early childhood he was taught to learn by being patient and observant. Important matters were never learned in a day.

He learned not to openly question or protest things that he didn't understand. To learn was to focus carefully on dimensional elements of when and where, not just what. To challenge someone in authority was unthinkable.

An Honest and Upright Man

These early lessons took hold in the young man. Mr. Jack became known in Hoonah as a quiet, honest, respectful and generous man, with a heart full of empathy.

Many Hoonah residents survive by subsistence – deer meat and fish are a vital part of their diet and firewood is essential for heat in the winter months. Mr. Jack was known throughout the village as making sure his elders and those in need had enough of these staples.

Mr. Jack did not have a history of criminal activity. He was known to local law enforcement officers in Hoonah as a good, law abiding citizen. He worked for the regional rural power company, IPEC, and took care of the Hoonah power plant. He was known by his employer and customers as a hard worker and dependable employee.

The great grandfather of the alleged victim was a respected elder in Hoonah. When interviewed after the allegations arose, he said Mr. Jack is a “very conscientious individual” and “honest and upright.”

Compassion for an Assault Victim

Mr. Jack deeply felt the pain and stress that sexual assault victims endure. He understood that the fear generated by an assault can never be fully erased from a victim's mind. Mr. Jack knew these things because he was close with a family member who was a past victim of sexual assault.

The woman's assaulter worked at a business that she had to periodically visit. The stress of wondering if she would have to face her assaulter was unbearable.

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Mr. Jack would always accompany the woman to that business address. If the man was on duty, Mr. Jack would handle the transaction so the woman wouldn't have to face her attacker. If the attacker was not on duty, then she would proceed to handle the transaction herself.

Today, this woman doesn't know if she could have made it through her ordeal without Mr. Jack's support. This feeling has made his wrongful conviction even more heartbreaking to her. How someone with so much good in his heart could be treated so badly by our "justice" system.

Mr. Jack's character was important evidence that he did not sexually assault the young girl. The empathy that he showed for a victim that he cared deeply for was even more relevant. The people of Hoonah knew exactly who he was as a person. The Juneau jurors weren't given a chance to find out for themselves.

A Young and Naïve Couple

Mr. Jack and his wife started dating in late 2003. They didn't drink alcohol or use drugs. They were heavily involved in a local church, attending 2-3 times a week. In July of 2005 they married and tried to start a family. After two years, Mrs. Jack was unable to become pregnant and the couple started thinking about adoption as the way to kick-start the family they desired.

OCS placed the two girls into the Jack's home in August 2007 when they were aged 10 and 11. The girls had been staying with some relatives in Juneau who helped talk the Jack's into taking them. Some people warned the Jacks about taking in these girls, but they had generous hearts and wanted to give these girls a chance at a good life.

OCS did not tell the Jacks the complete story of terrible things the girls had been exposed to in Anchorage. One of those exposures was frequently observing adults engaged in sexual activity. The primary social worker would later call Mr. and Mrs. Jack "young and naïve" and they were "not raising babes with a clean slate."

Chicken Soup for the Soul

The two girls struggled in school so the Jacks helped them with their homework at night. The Jacks enrolled them in music and swimming lessons. The couple read bedtime stories to the girls from "Chicken Soup for the Soul." The girls began to blossom, grades improved. By the end of the first school year they were named successive Student of the Month in the Hoonah school.

The following summer things became more difficult for Mrs. Jack to manage. She had to deal with the fallout from an accident in the family that forced her to care for her brother's children. She had to deal with a family illness and eventually a death that required her to travel south. She had to quit her job to try to deal with everything.

Mrs. Jack asked the social worker to put the adoption on hold while she tried to get everything under control. The social worker's response only exacerbated the stress – she told Mrs. Jack that if they didn't carry through with the adoption OCS would start looking for another home. By then the Jacks had grown to love the girls and the girls both looked forward to being adopted.

By that summer the alleged victim was well developed for her age, along with being athletic and smart. She had begun her menstrual cycle. She had begun to attract the attention of boys her age and older.

Certain friends started pressuring her to become sexually active. Mr. and Mrs. Jack were forced to put tight restrictions on where she could go and who she could hang out with. She began to lie to them.

Trouble with The Biological Family

The biological family was also beginning to show more interest in the girls. The birth mother was allowed by OCS to have only one supervised visit a year with her daughters. Relatives who lived in Hoonah were involved in illegal drug use, yet demanded more visitation because the girls' half-sister lived with them. It was very difficult for both OCS and the Jacks to manage this aspect of the girls' placement. Tension between the Jacks and the biological family began to build.

The tension exploded in September of 2008. The girls attended the 18th birthday party for their half-sister. Unknown to the Jacks or the OCS, the birth mother was there. According to the social worker, the mother made her daughters feel guilty for wanting to be adopted by the Jacks. The mother accused her daughters of abandoning her and they became freaked out. The alleged victim called Mr. Jack and he arrived to take both girls home. The adults exchanged harsh words.

Anxiety soon set in with the younger sister, she was caught stealing at school and then tried to run away from the Jack's home. Mrs. Jack had a breakdown. She asked that the girls be removed from the home, but calmed down after a couple days. In late September, the OCS social worker told the girls' Court Appointed Special Advocate (CASA) she was worried the placement was going to blow up.

The biological family started writing letters to OCS demanding more time with the girls and threatening complaints under the Indian Child Welfare Act (ICWA). They had a valid point -- the girls' half-sister would be moving away soon and it was important for family ties to be maintained. But the OCS and the Jacks also had a valid point -- they did not want the girls to be exposed to illegal drug activity in the relative's home.

The biological family had also ignored the OCS directive regarding the necessity of supervised visits with the mother. The failure to follow strict orders had resulted in anxiety in the younger sister that was blowing up all the progress that had been achieved in the past year.

There was no way the social worker could appease the biological family. On October 1, the family member went over her head and wrote a letter to the girls' Guardian Ad Litem (GAL) in Juneau. The social worker was accused of ignoring them. She said the girls' cultural needs were not being met.

The letter worked. A big meeting was held in Juneau in on October 5 resulting in the social worker, the GAL, and the CASA having to fly into Hoonah to begin supervising visits with the biological family. It wouldn't be the last time the biological family contacted the GAL directly.

Nothing Unusual in the Home

The first of those visits resulted in the social professionals being in the Jack's home on October 13 and 14. This was the same time the sexual assaults were later alleged to have occurred in the Jacks' home on a nightly basis. In an early version told by the alleged victim, the assaults would have been occurring by then for the previous two weeks.

The social professionals didn't notice anything unusual in the home, with the girls, or in the alleged victim's interaction with Mr. Jack. The OCS notes say that they baked an apple crisp together. The sisters rough housed and talked about school, music and sports. Nothing was out of place.

A Stupid but Innocent Mistake

In early November Mr. Jack made a stupid mistake while the family was rushing around to get ready for school and work. Mr. and Mrs. Jack were both using the toilet and the sink in the bathroom while the alleged victim was in the shower. As he was getting ready to flush the toilet, Mr. Jack pulled back the shower curtain to warn his daughter from getting scalded. Mrs. Jack freaked out.

Mr. Jack tried to calm down his wife, but she locked herself in their bedroom. Mr. Jack left with the girls and dropped them off at school on his way to work. Mrs. Jack tried to phone her husband at work but he didn't answer. The stress roared back. Mrs. Jack called the social worker and asked that the girls be removed from the home.

The social worker flew to Hoonah the next day. She met with the alleged victim separately. The girl told the social worker that nothing else had happened and Mr. Jack hadn't done anything like that before.

The social worker also met with the Jacks separately. Mr. Jack felt terrible about what he had done. He said it was a stupid mistake and he shouldn't have used the bathroom while the alleged victim was showering. Mrs. Jack said there wasn't anything else in the relationship between her husband and the alleged victim that was cause for concern.

The social worker concluded that the shower incident was an innocent mistake. She felt it was best to keep the girls out of the home temporarily to help Mrs. Jack recover from the stress. The family had been going through counseling over the last month and the situation seemed to be improving.

That next weekend, the Jacks attended a school function with both girls and on Sunday the alleged victim spent the entire day with Mr. and Mrs. Jack. At the end of the day the girl did not want to return to the temporary home. She wanted to remain with the Jacks.

After dropping the alleged victim off, Mr. and Mrs. Jack had a lengthy phone call with the CASA. They were very sad and wanted the girls back. The CASA felt they were sincere and documented his conversation in a lengthy email to the social worker and the GAL. A plan was drafted up to work the girls back into the home but a few days later the social worker abruptly cancelled them. The girls never returned.

A Pregnancy Scare

The new foster home was a lot less restrictive than the Jacks'. The girls liked it because they had virtually no limitations on who they could see and where they could go. The OCS liked it because it was a lot less hassle. The biological family didn't like it. The girls still weren't allowed in their home and now they wanted custody. They increased their letter writing campaign, their ICWA complaint bolstered by the fact the new foster parent was not Alaskan Native.

After entering the new foster home, the alleged victim began to openly display suggestive messages at school. An older classmate recognized the consequences and told Mr. Jack. He spoke to the new foster parent but the girl's behavior didn't bother her.

Three months after the move to the new foster home, the social worker would admit to Mr. Jack that the girl's concern she was pregnant was "kinda how this all came up." The social worker told him the girl was "really scared".

Try to imagine what a pregnancy scare would mean to a 12 year old girl who had bounced around foster homes much of her young life. Would the biological family use the pregnancy scare as proof the girls were better off with them and force another change? If she was pregnant and had a baby what would be the consequences? Would she be separated from her younger sister whom she had protected throughout a tumultuous childhood? Would she be forced to leave Hoonah and all the relationships she had built with friends and teachers?

What was going through the minds of those involved in the custody battle? Was the new foster parent concerned that her lax restrictions would enable the biological family to get custody? Did the State worry the pregnancy scare further exposed them to ICWA violations? Did the biological family perceive that blaming Mr. Jack would allow them to settle a family grudge without compromising the leverage the pregnancy scare would give them in their ICWA case?

It can be understood how a young, scared girl might have thought there was only one way out of this mess. To say that Mr. Jack had assaulted her in such a way that would account for the pregnancy scare. The adults quickly bought in to the allegations.

(Part III will address the overzealousness of law enforcement and the prosecution.)