

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

By David Ignell³

A Nebulous Initial Disclosure

On January 11, 2009, the biological family member called the GAL in Juneau to report that a few months earlier, Mr. Jack had come into the girl's room for another hug and touched her all over her body. The details of when and where the "initial disclosure" of the assaults occurred were always nebulous and inconsistent. The alleged victim had told her half-sister sometime between November and January and either at a public event or at school about Mr. Jack touching her in a way that made her feel uncomfortable.

The half-sister would later say she told the biological family member who would later say she was finally able to corner the alleged victim three to four days after the initial disclosure. The half-sister said the alleged victim didn't tell her anything about the sexual assaults – that information came to her later from either the new foster parent or the family member.

The family member would later tell an investigator that the "initial disclosure" occurred a year after the girls had been transferred to the new foster home. The investigator had to remind the family member that the AST had been called into the case just three months after the girls had entered the new foster home – the timeline the family member was giving was impossible.

The account provided by the GAL was different than what the half-sister and the family member told the investigator. According to the GAL's email to the social worker, the alleged victim disclosed to the half-sister and the biological family member at the same time on January 10. The account provided by the GAL even differed from the one later given by the social worker.

The family member would tell one investigator that the alleged victim never gave any details to her. The social worker documented it completely different. She told a different investigator, "this is the bad part, the family member totally pressured her and questioned her and wanted to know what had happened."

Nothing matched up, yet that didn't seem to deter the investigators or the prosecution.

Maybe I Can Get into a Story Somehow

It would be almost a week before the alleged victim was brought to Juneau for a recorded interview with police. The social worker warned the adults in Hoonah about the importance of not discussing the matter with the girl before she arrived in Juneau. That didn't happen. Besides being "totally pressured" by the family member, the foster parent and the school counselor also spoke with the girl about the allegations.

The social worker warned the police interviewer that it was important for the girl to provide a narrative of the alleged assault. That didn't happen either. After establishing rapport, the interviewer asked if the

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girl could tell her the story and then answer questions in the end. The alleged victim said no and then, "it's easier like if you ask me questions first and I can just get into a story somehow."

By the time the interview was over, the allegations had gone to a whole new level. What had initially been described as a hug that made her feel uncomfortable turned into full scale sexual assault on a nightly basis for an entire month. The nightly occurrences were said to last up to three hours and the sexual assaults were done in about every imaginable horrific way. The girl said Mrs. Jack and her sister were sleeping just a few feet away.

Five Minutes in Hoonah

In early February, the Juneau District Attorney asked the Alaska State Troopers to handle the investigation. The AST accepted and the DA told Hoonah police to "stand down". The AST arrested Mr. Jack two and a half weeks later on the DA's recommendation. The investigation was a complete farce. The truth was not pursued, it was avoided.

The lead investigator for the AST spent a total of 5 minutes in Hoonah investigating a major felony case said to have occurred there on a nightly basis for a month. The Trooper did not visit the scene of the alleged crimes, look for evidence, and survey the likelihood that the crimes went undetected for so long in a small house.

The Trooper made no effort to interview Hoonah residents that were close to the family – teachers, clergy, neighbors, relatives -- to gain their perspective. Instead the Trooper flew to Hoonah to pick up the previously recorded police interview of the girl. The Hoonah police chief brought it out to the airport and 5 minutes later the Trooper got on the plane back to Juneau.

Inexplicably, the lead investigator did not even attempt to interview Mrs. Jack. The only person the AST interviewed prior to the arrest was the younger sister. She was sure that Mr. Jack had not sexually assaulted her sister. She told the investigators that she and her sister often slept in the same bed, something Mrs. Jack would later corroborate at trial. She was adamant about observations that completely contradicted things her sister had told the police interviewer.

Entrapment and Deception

Instead of looking for evidence or interviewing witnesses, the first thing the AST did was apply for a warrant to secretly record conversations with Mr. Jack. The AST and the social worker met to come up with "themes" that could be used to entrap Mr. Jack. They decided on a plan where Mr. Jack would be called into the social worker's office and told the OCS wanted his help in figuring out what kind of counseling the girl needed. By the time the secretly recorded meeting took place, the AST had interviewed the younger sister and knew there were even more problems with the allegations.

The recorded interview took place in the social worker's office in Juneau. For the first forty-five minutes, Mr. Jack and the social worker reminisced about placement and changes in the girls' lives since going into the new foster home. They discussed bad influences on the girl, the recent suggestive behavior at school, and the new foster parent's lack of concern.

The social worker finally worked the conversation towards telling Mr. Jack that the girl felt she was touched inappropriately by him. The social worker said she needed his assistance in figuring out what

kind of counseling they needed to get her. Mr. Jack was bewildered by what the trusted social worker was laying on him for the first time.

Over next hour and a half, Mr. Jack openly wracked his brain trying to figure out what he might have done that the girl found inappropriate. The social worker kept telling him the girl needed the right kind of counseling. Mr. Jack deeply cared for his former foster daughter and wanted to do everything he could to help. When Mr. Jack asked if the younger sister had said anything, the social worker added to Mr. Jack's confusion by lying and telling him no.

Mr. Jack tried to remember instances of hugs, roughhousing, reading bedtime stories when he might have gotten too close to the girl. He couldn't. He had been always been so careful around both girls. He and his wife had told the girls to say something if ever did anything that made them feel uncomfortable.

The only thing he could think of was the few occasions when the entire family had fallen asleep in the master bedroom late at night while watching TV. Maybe in his sleep he had moved his arm or body a certain way but how could he know for sure? He was asleep after all. He repeatedly and consistently denied *knowingly* touching either girl in any improper way.

The social worker was never direct with Mr. Jack, she just dropped vague hints. When she brought up the pregnancy scare, Mr. Jack immediately said the first thing that came to mind were the friends that had tried to entice her to experiment with sex. Up to the end of the interview he kept saying "poor girl" and agreed with the social worker that she definitely needed counseling.

The meeting and a follow-up call that was also recorded lasted a total of three hours. The social worker would later admit she wasn't direct enough with Mr. Jack about the nature of the allegations.

Deceiving the Grand Jury

What you've just read was the extent of the State's case against Mr. Jack. The social worker became the star witness for the prosecution. Her testimony about the secret recordings was the central focus of both grand jury indictments. The social worker's theme was that Mr. Jack did not "adamantly deny" the heinous allegations that the prosecutor had just pried out of the alleged victim through completely leading questions.

The social worker did not tell the grand jurors that even the AST felt her questions to Mr. Jack had not been specific enough. She did not tell the juries that Mr. Jack repeatedly said that if he had touched the girl in any improper way it was unintentional and unknowing. The social worker did not tell them that she had been in the Jack's home during the time of the alleged assaults and didn't notice anything unusual. She didn't say that the day after the shower incident, the girl had said Mr. Jack had never done anything inappropriate to her.

The social worker didn't tell the grand jurors that five months earlier and just one week before the alleged assaults were said to have begun, she wrote a colleague:

"Tom is very attentive to all of the girls. Boy, he is in a hard place, all of those girls wanting his attention. However, he is a very calm and thoughtful man and stands firm when he needs to.... They are a young and very naïve couple that need a lot of support. They are not raising babes with a clean slate, and these are their first children."

The Girl's Admission the Allegations Are False Is Ignored

When the alleged victim found out that Mr. Jack would be arrested, she told the trusted teacher at the Hoonah school the rumors about her and Mr. Jack having sex weren't true. The teacher, *a mandatory reporter of abuse under Alaska law*, relayed this information to the school counselor who said the girl didn't know what she was talking about. The teacher then went to the school superintendent who told her it was none of her business.

The Hoonah teacher then wrote a letter documenting her encounter with the student that was faxed to the OCS on February 25. The OCS in turn faxed the letter to a paralegal at the District Attorney's office on February 26.

The DA did not bring up the letter to the grand jury on February 27. The OCS did not bring up the letter with the girl. Law enforcement did not attempt to interview the teacher. The letter wasn't turned over by the DA to Mr. Jack's attorney until after the first trial had already started. Their excuse was that the letter had been filed incorrectly. Mr. Pallenberg didn't want the letter read into the record where the appellate court would see it.

The end result is that three different State entities managed to completely neutralize the most important piece of evidence in Mr. Jack's case. An admission to a mandatory reporter under Alaska law was ignored and buried. It was yet another blatant violation of Mr. Jack's constitutional rights that should have resulted in all charges being dismissed.

Deceiving the Alleged Victim

Two days after her admission to the teacher, the girl testified before the grand jury. The DA completely led her through all the allegations. Most of the girl's responses were "yeah," "no," or her response was noted in the transcript as inaudible. Immediately after the grand jury she was taken to Bartlett Memorial and given a pregnancy test that came out negative. The grand jury hearing had started at 1:30 pm on a Friday. The pregnancy test was given at 3:08 pm. The results were known by 3:20 pm.

There is significant evidence that the girl had been given an earlier pregnancy test and her adult handlers already knew she wasn't pregnant. Yet they made her wait until after testifying before the grand jury before putting her through the motions of another test. By doing this, was the fear of a pregnancy being intentionally replaced with the fear of perjury?

(Part IV will address questionable rulings of Judge Pallenberg in advance of an upcoming election.)