



## 70 Million S3E8 Annotated Transcript: On Tribal Land, Banishment, Rehabilitation and Re-entry Add Up to Justice

In Alaska, rising violent crime and substance abuse across the state have also increased incarceration rates among Native Americans. Making use of their legal sovereignty, some Alaska Native leaders issue “blue tickets,” documents that sentence offenders to legal expulsion. Journalist Emily Schwing reports on the consequences and cultural impact of banishment from Toksook Bay.

Special thanks to Vanessa Lincoln for simultaneous interpretation and transcription for this episode.

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**Mitzi Miller:** 70 million adults in the United States have a criminal record. In Season Three, we’ll explore how our rapidly changing reality is impacting those in custody, and the policies that keep them there. I’m Mitzi Miller.

In Alaska, the rate of violent crime is [three times higher](#) than the national average. Last year, the US federal government [declared a law enforcement emergency](#) in Alaska’s rural Native villages. The [state’s](#) soaring crime rate, high levels of violence, and substance abuse in rural communities is not only filling prisons to capacity, it’s mentally and emotionally exhausting for residents in those communities.

*Julie Roberts Hyslop: I’ve lived through many tragedies in my own lifetime...*

**Miller:** Last Year, US Attorney General [William Barr](#) visited Alaska. During a roundtable discussion with tribal leaders from across the state, Julie Roberts Hyslop was very honest about life in her village: Tanana. Roughly 250 people live there, along the banks of the Yukon River, in Alaska’s Interior region.

*Hyslop: On January 13th, 1995, my sister-in-law was brutally murdered by her boyfriend. He was addicted to cocaine and alcohol and, um, he murdered her, her right in front of his son and their friend. That was probably one of the most horrible times that I’ve had to live through with my husband. And then on May 1st, 2014, my nephew [murdered two Alaska state troopers](#) in my mother’s house. Those are things you know, that are horrible, you know, to have to live*

*through. Those are the things that, you know, goes on in our villages. It just happens all the time, things like that, you know, and it's not easy coming here and telling my story like that, but that's reality.*

Miller: The 2014 shootings Julie told the AG Barr about made headlines in Alaska for days. Thousands of people came out for a [memorial](#) to the fallen officers.

Two years later, a 22-year-old-man was [sentenced](#) to 203 years in prison for the shootings. His father was also sentenced for evidence tampering, with eligibility for parole. The Tanana tribal council says neither man can return home.

*Music*

Miller: Extreme violence, and the fear it creates, is why some local leaders have resorted to issuing what's been known commonly for years in Alaska as "[a blue ticket](#)"—a legal expulsion, with no invitation back.

Reporter Emily Schwing looked into [banishment practices](#) and their impact on those affected by both the tribal and state criminal justice system.

Emily Schwing: More Alaska Natives and American Indians are incarcerated in the state than any other minority. Alaska Native men alone make up nearly 40% of Alaska's prison population. But if some are issued a blue ticket or placed on parole, where can they actually go, once they are released?

*Sound of walking into prison, walkie-talkies and alarm sounding.*

Schwing: David grew up in Toksook Bay, Alaska — it's a small village on an island along the Bering Sea Coast in Western Alaska. But, he hasn't actually been there in a while.

*Schwing: Hi...nice to meet you...*

Schwing: David is not his real name. He only agreed to talk to me in the first place if I didn't name him.

I first met David last January inside a meeting room at the Anchorage Correctional Complex. The walls are cinder block, painted a bland vanilla color. We sit across from one another at a square metal table. He has dark brown eyes, high cheekbones and a thin goatee. The many tattoos that cover

his arms and chest peek out from behind his mustard yellow prison-issued scrubs.

*David: Well, this one right here is just three skulls on my shoulder and then I got clouds and these three, I don't know it's, like, something that I don't really believe in, but it's all watching over my things on the grave. Behind it, it's um the devil behind the graves and the demonic Virgin Mary...*

**Schwing:** David is in his early thirties. He's served time in a maximum security prison. And as a teenager, he was in and out of juvenile detention. His record is extensive. There's domestic violence, vandalism and theft. Last year, he said he was drunk and punched out a window.

*Schwing: Can you tell me a little bit about the good parts of your childhood?*

*David: I grew up with my siblings and my older brother. He taught us how to fish, he taught us how to fix nets, he taught us — what to survive, how to live off the land, how we go hunting for our family, to subsistence fishing, whatever, other than that we used to go to lap games and basketball...*

**Schwing:** David likes to talk about home. English isn't his first language. He's Alaska Native — Yup'ik — and he grew up speaking the Indigenous language in his community: Yugtun. He speaks fondly of the place.

*David: We hunt together, we eat together, we play together, you know. Basically, the whole village helps each other. Like every time we go out hunting, we'd share our catch you know, like with certain families or older people, or elders. Elders always encourage us to be on the right path, stay out of trouble, um...*

**Schwing:** But David didn't always listen to his elders. He also remembers getting into trouble, even as a little kid.

*David: It was, back then it was, like basically, like gummy balls — we'd always go to the stores and, you know, just be stupid about it and steal.*

*Schwing: Like what, can you say that again?*

*David: Those like Bazooka balls or gum, you know, we'd always go to stores and take them without paying for them and later on, get caught and get banned from the stores and sh\*\*...*

Schwing: Toksook Bay's tribal council has banished David from the village. He physically assaulted his then-girlfriend more than once, drank heavily, and they say, he was a danger to the community.

A few days after I met David, he was released from prison. He flew from Anchorage, 300 miles west to Bethel, the hub community closest to his village, but he didn't dare go any farther. The Toksook Bay Tribal Council won't allow him in the village. That was back in January. In the spring he went back to Anchorage and then, this past June, he was arrested again. He'd violated the conditions of his release.

David: *Yeah, cause they offered me three years flat on one — my 2019 case and they dropped attempted escape and just gave me a VCR 90 days flat on it.*

Schwing: VCR means "violating condition of release."

I haven't been able to go back and visit David in person. Because of the [COVID-19](#) pandemic, there is no visitation at any of Alaska's prisons right now.

*Sound of church service. "Hallelujah, hallelujah."*

Schwing: Last winter, I went to Toksook Bay for a little over a week. While I was there, I went to church. The service was given by an elder, Joe Asuluk. He's also a Catholic deacon.

*Sound of church "The word of God..."*

Schwing: While visiting with Joe he mentioned that years ago, he was also facing banishment. At the time, I didn't ask him much more about it, but this summer I gave him a call. The phone connection was scratchy and distant.

Schwing: *Hello?*

Joe Asuluk: *(speaking Yugtun) Yaa. Tua-llu?*

Schwing: *Oh, hi, Joe. How are you? It's Emily.*

Joe: *(speaking Yugtun) Yaa.*

Schwing: *Hi! (laughs)*

Joe: *(inaudible) Vanessa is here with me.*

Schwing: Joe doesn't speak English as well as he speaks his Native language: Yugtun, so his distant cousin Vanessa Lincoln joined him to help translate.

Joe: *Uh, hold on, hold it! (speaking Yugtun) li-i. Okay!*

Schwing: *Okay!*

Vanessa Lincoln: *Emily, as back up, I'm gonna start recording right now.*

Schwing: *That sounds perfect, yes, thank you so much.*

Schwing: Joe tells me he was in the army in the early 1960's, based at Fort Jackson, South Carolina. And while he was there, Joe says his baby sister passed away back in Alaska, but his family didn't tell him for more than four months.

Joe: *(speaking Yugtun) Waten umyuarateqlua meryaureskuma taugaam. That was mistake. Alarllua cakneq.*

Vanessa: *(speaking Yugtun) Cakellrusiu tauna Anna-q?*

Joe: *...little sister, baby sister...*

Vanessa: *Um, um...*

Joe: *Yeah let me try...what makes me start drinking was...that maybe the drinking would help to forget about my little sister, or to heal my problem — I mean, what do you call it? The grief. The grievance. It might heal my grievance, but it didn't. And that was the mistake that I make, I start to drink in February the year of 1963. That was a bad start, that was big mistake.*

Schwing: Joe says he drank heavily for nearly two decades. And he says it would get him in trouble. Then, in 1981, Toksook Bay's Tribal Council called a meeting. They told Joe they were thinking about banishing him.

Joe: *(speaking Yugtun) Tamaani ayaasqellratnia umyarteqellruunga ukut irnianka maani ellaangata waten tua-i-wa....*

Vanessa: *Um, he wasn't really scared, he was more worried and embarrassed about you know, word getting out to the other villages and what he would have to*

*tell them if he tried to move to those other villages and he, the first thing he said was he had children here and his children knew Toksook Bay and I think the thought of them having to move away and not being here was his biggest worry.*

Schwing: Had he been banished, he could have moved to two other villages on the same island, but he says he would have been too ashamed to explain why the tribal council made him leave. So, Joe says he asked for a second chance. And then he sought guidance from his elders and two families in town.

Joe: *(speaking Yugtun) Tuaten piurallekmun taugaam maliggtaqutellemkun, aa, maliggtaquluku piamku cakviurpegnii-llu. Quyalua taugg'.*

Vanessa: *He said it wasn't hard for him, because he had support.*

Joe: *(speaking Yugtun) ...-qurlua ayuqucirkamnek.*

Vanessa: *Just talking to him on how he...how... (speaking Yugtun) Ayuqucirkan.*

Joe: *How to live my life, how I should live my life.*

Vanessa: *Yeah, how he should live his life. (speaking Yugtun) Ataucimek advice-amek.*

Joe: *When our late chief Paul John told me that, 'if you change your behavior in a good way, the people will want you and maybe someday the people will elect you or someday, the community of Toksook Bay will start looking up to you.' That was the advice.*

Vanessa: *Yeah, he just, he said that better than I could have.*

Schwing: I ask Joe about the differences between the Western criminal justice system and the tribal justice system. There is no state or federal law against village banishment in Alaska. In 2017, during a keynote speech, Alaska's attorney general at the time said the state doesn't generally interfere in tribal decisions, like banishment, because the method is considered a private civil action and [tribes are sovereign governments](#). But the A.G. did say the state may help enforce banishment [decisions by tribes](#), due in part to limitations of available law enforcement in villages.

Joe: *(speaking Yugtun) Wiinga tamakut egmain itercivigmun ayagcetenrilengraata maani, aa, calriarqaq amlertuq. Community service....*

*Vanessa: He thinks those people who do commit crime, if they were to be sent here to do community service and stuff like that, that those things that are needed - they'd be kept busy here and things like helping out elders would be community service, plus at the same time, they'd have the elders to talk to them, like what his mentors did with him, so having access to being in the village after getting out of jail would be effective because they'd have the resources that they need out here.*

*Music*

Schwing: [Last year a man accused of dealing drugs was banished](#) from the Northwest Arctic village of Kiana. He didn't need to be convicted for the tribe to decide on banishment. Since 2016, eight banishments have been reported by the state's largest newspaper and other local news outlets.<sup>1</sup> And in the last three years, tribal leadership tells me two men, including David, have been banished from Toksook Bay.

*Charles Moses: Banishment was a method that was used many years ago.*

Schwing: This is Charles Moses. He's Toksook Bay's tribal court administrator.

*Moses: Our people had their own judicial system. And they had different procedures. It was unwritten.*

Schwing: There were no courts like the ones in Western culture. There was no jail either. The Yup'ik system simply wasn't set up that way.

*Moses: So, for example, one of the very first things that was taught to me was this: (speaking Yugtun) Kiteg' at' unuamek ilaten aipaqu'urqiki assirluten pingraatgen ilangcivkenaki unitaqluki piniaten. Okay, today, when you play with your friends, play nicely with them, if they bother you, if they bully you, just leave them be. So, that's something that, that we grew up with. Once in a while, something would happen, but eventually they'll come to realize that this person is not gonna listen. So they, the elders, I call them the Council of Elders get together and discuss this and say, 'we can't have this person living with*

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<sup>1</sup> Eight banishments include, [Thomas Nay \(Kiana\) Oct 6, 2019](#), ["Woman" \(Galena\) Aug 31, 2019](#), [Ronald Oertwich \(Togiak\) Apr 3, 2017](#), [Ty Moore \(Togiak\) Feb 8, 2017](#), ["Group" \(Quinhagak\) 2016](#), ["man" \(Yukon\) unknown year](#), ["Dillingham man" Apr 2016](#), [William Delgado \(Manokotak\) Jan 6, 2016](#).

*us. We just have to kick 'em out.' And that was what happened because we didn't have jails back then. That was a way of, of passing a sentence.*

Schwing: The length of banishments—or whether they're reversed at all—are case-by-case, and different for every tribe.

There are 229 federally recognized [tribes](#) in Alaska, and there are hundreds of small villages scattered across the state. Many are not road accessible. And most of these communities have never had any permanent or dependable law enforcement.

Schwing: *It must take a lot, though, I mean, you'd probably have to do something pretty serious to get banished from your village, right?*

Moses: *Yeah. You would have to be destructive. In our culture, harmony is our number one goal for community. If, if you disturb that harmony or be like a thorn, they'll tolerate that for as long as they can, and then kick you out.*

Schwing: *In your culture, family ties are extremely important too, right? So, that breaks a family tie. Like, how do people deal with that?*

Moses: *In our culture, the community, the family is number one, the individual is not. Okay. The only time that you hear that is at the schools. You'll see posters, 'I'm number one.' That's what they teach. They want you to think first of yourself. In our culture, it's not that way. And when everybody did what they were supposed to do, it made surviving easier.*

Schwing: Tribal Administrator Robert Pitka is here too, listening. He says there's one thing he wants everyone to know: Banishment? It's rare. It doesn't happen very often.

Robert Pitka: *Some families may request it because of a family member causing sort of like chaos in the family, causing problems or arguments. That sometimes comes when maybe the head of the house is wanting to ban this person just so they can have peace. But it doesn't come to that point yet in the tribal court or through the council. But banishment has happened because the person is violent.*

Schwing: Robert and Charles say that the two men who've been banished from Toksook Bay recently have been asked to leave because of drug and alcohol use, and extreme violence.



Music

Schwing: Charles is in his sixties and Robert is in his fifties. The two grew up together. And both acknowledge this system has its flaws.

Moses: *It doesn't matter where you go, if you don't have the education, if you don't have the skills, if you're not — if you don't have any trade, then you're gonna end up being homeless. And they're still family.*

*We don't just abandon them, abandon them.*

Schwing: *So how do you take care of somebody who has been banished? Like, how do you take care of them from a distance?*

Moses: *Mainly what we try to do is we try to stay in touch with them. Okay, and sometimes that's not possible. Especially, when, when, when they are homeless. We get news from them and sometimes it's, it's not forever ...*

Schwing: *Yeah. I was going to ask you, how do you come back? Like, how do you unbanish yourself?*

Moses: *Well, basically what happens is the person who's banished will get a hold of their family and talk to them. And if they're able to convince them, then that family goes to the council and, and tells them that, they want their son or their daughter back. For a trial.*

Schwing: *Oh, and then it's just a trial period. Yeah. OK.*

Pitka: *The answer wouldn't be yes/no. But we would want to see an improvement from him, like in writing. We want to hear, or in writing from him who was banned that he wants to contribute into the community, be part of the community with a changed behavior or no more violence. And then council would decide from there.*

Music

Schwing: While [many villages](#) don't have a police force, Alaska does have a program that installs Village Public Safety Officers in some places. VPSOs do everything from search and rescue, to firefighting and including law enforcement. Today, there are [38 VPSOs statewide](#). Less than a decade ago,

there were more than [twice as many](#) VPSOs. Jody Potts used to be one of them.

*Jody Potts: When someone is released from jail or prison and they're placed on supervised probation or parole...I often would get calls from a probation or parole officer saying, 'Hey, so-and-so's just released from prison. They want to return home to their village. Do you have a VPSO there that can supervise them?' And I'm like, 'Nope, I don't.' So, then that person cannot return home.*

*Schwing: When someone is banished, it's usually a last resort. Often they have a prior criminal record and are already fighting charges in Alaska's court system. They probably have to make court appearances in a hub community like Fairbanks, or Bethel or Anchorage... Many people are out on parole and if they haven't been banished by their tribe, Potts says Alaska's Western system effectively banishes people from their villages regardless. She grew up in the Alaska Native village of Eagle, not too far from the Canadian border. She was a VPSO for a decade.*

*Potts: You know, I mean, I'm, I have a cousin that just really struggled his whole life, you know, had a lot of trauma growing up. And, you know, he spent a lot of time in jail throughout his adult life. And anytime he got out and he was really gung ho to do good, then of course they want to go home. Like they're best at home, you know, with their family and their people and, you know, their culture and living on the land and doing things, you know, that's the healthiest place for them, but they can't return home. And so, you know, my cousin was always stuck here in Fairbanks, you know. Being a felon, he couldn't get a job and, you know, he didn't have, you know, experience. So it was just a real big struggle. And he was just homeless on the streets until he, you know, went to jail the next time. And it was just this vicious cycle, you know, he's always breaking parole because, uh, he just didn't have any, any support, any way to get out of that system. So was just kind of stuck in the system in this cycle. And, you know, it's really unfortunate to see that. And that's very common for...*

*Schwing: What happened to your cousin?*

*Potts: He passed away a year ago.*

*Schwing: Oh, I'm sorry.*

*Potts: Yeah, yeah. He's like a brother to me, we were really close. I mean, yeah. He had all these, you know, problems in his life, but he was the funniest guy I*

*ever knew, super talented artist. Um, you know, my kids just loved him. Even though he's basically, you know, a career criminal, I guess you could say, but he was a good guy and yeah. So, um, yeah, sadly, he was just kind of floating here and there, um, on proba– on parole. And...*

*Schwing: Did he grow up in Eagle village too?*

*Potts: Yeah...*

*Schwing: But he couldn't go home because he was on parole.*

*Potts: Mmm mmm. Yeah.*

*Fade up on the sound of water running in the sink, glass jars clanking in the sink.*

*Schwing: I met with Jody at a really busy time this summer. She had just returned from a big fishing trip with her family up on the Yukon River. It was late August. As her parakeets sang in the dining room, she was cleaning giant glass jars at her kitchen sink. A cooler filled with freshly caught salmon sat nearby on the linoleum floor.*

*Potts: Yeah. So summertime, we're just, like, so busy, like just getting, preparing for winter, you know, I don't really have time for much else, but, you know, um, we were at fish camp, which is a place where we go to harvest salmon and it's our traditional food source. You know, our traditional foods is our medicine, you know? And so we're going to be, uh, jarring up some of our smoked salmon today. And then, um, somewhere we'll also be picking berries, we've gotten a few gallons of blueberries from the land, you know, all that is just really important to our way of life. It's really important to our health and wellness to be able to maintain this traditional way of life.*

*Sound of washing dishes*

*Schwing: I ask Jody if she thinks things could have been different for her cousin. If the state system had allowed him to return to Eagle, where he could eat traditional foods and reconnect with his language and family, might he have been able to rehabilitate himself?*

*Potts: It's hard to say. I mean, you know, he had a real serious problem with addiction, you know, and so, um, he's always happier there, you know, but*

*times he's also been there, he's struggled, you know? And so it was, yeah, it was hard.*

*Schwing: I'm asking because earlier you said, you know, our traditional foods are our medicine. Um, and you know, a lot of indigenous people tell me like 'our culture is our medicine.' Um, and so if you're not able to go back to where you came from, um, you know, I wonder, like, if that also sort of causes problems for people and their inability to rehabilitate themselves, you know?*

*Potts: Absolutely, Yeah. It's, um, for Native people, um, you know, our way of life, culture, family, or community is our greatest strength and, you know, can really support resiliency and recovery, you know?*

*Schwing: Do you think that there are ways to incorporate Alaska Native culture into the criminal justice system, so that, you know, people who have behaved badly enough to be banished from their communities, um, get the medicine, as you would describe it, that they need?*

*Potts: Oh, yeah! Absolutely. There's so many ways that they could, um, you know, include, uh, Native culture in rehabilitation.*

*Schwing: Like how?*

*Potts: Um, boy, uh, ceremony, drumming, singing, traditional foods. I mean, um, you know, and also counseling with a Native healer. And you know, really what we're seeing, um, with the rates of incarceration of Native people and the crime rates in villages and stuff is really a symptom of historical trauma. And so I think a lot of the folks that I arrested just don't even understand why they're struggling, you know, and I think having, um, you know, native counselors and, um, culture, uh, available to people in the criminal justice system would be a huge benefit and healing.*

*Schwing: A few weeks later Jody told me in a message that she believes at the very least, Alaska Natives who are in prison should be allowed to smudge. [Smudging](#) is a spiritual cleansing practice where sage, cedar or sweetgrass are burned. Jody also says she believes people in prison should have improved access to informed counselors who are trained in Alaska Native cultural practices.*

*Music*

*Voicemail: Hey Emily...*

Schwing: Early one morning in June, I got a phone call. I didn't recognize the phone number, so I didn't answer.

*Voicemail: He's been trying to get ahold of you but um... If you wanna get ahold of him, call back on this number. He'll be with me. But, uh, yeah, have a wonderful day and call back. Late.*

Schwing: Whoever made this call told me David wanted to talk to me. I suspect this was actually David calling, but I never got a chance to ask him about it. Later that day, from what I can tell in the court records, he resisted arrest and was found in possession of a controlled substance. He was arraigned the following afternoon.

: Since I've known David, he's had at least two phone numbers. His Facebook page went dark for a while this spring, because he couldn't afford a data plan. Last winter, he called because he didn't have enough money for food. Another time, he called me because he couldn't pay an electricity bill. I couldn't help him and beyond suggesting a local charity and warming shelter or the state public assistance office, I just didn't know what to tell him.

*Schwing: Do you call your family, ever? Do you have friends that check on you?*

*David: Yeah, I call my family...I've been calling my brother and my moms and a couple of my friends out there...*

Schwing: I don't actually know who David talks with. I called his mom once and during that call, she told me she had nothing to say about him. His brother also declined to talk about him.

This is exactly the scenario Charles Moses predicted and Jody Potts has seen play out, in her family and on the job. This is the part of banishment and the Western parole system that's not working for Alaska Natives.

*Music*

Schwing: This fall, David agreed to that plea deal that would put him in prison for three years. He was transferred to a medium-security facility in Wasilla.

*Schwing: So, I wanted to ask you if you think that, you know, three years and three months in prison is a good thing for you?*

*David: Well it depends on what's recommended through the courts.*

*Schwing: Yeah, but what do you think? What do you think about if you have to spend another three years behind bars?*

*David: To be honest, I don't know. With the way the prison system is run...I have no comment on it.*

Schwing: David doesn't want to tell me about his experience, because he's worried anything he says could come back on him, while he's there in prison. He doesn't trust the system. Because of the coronavirus, no one can visit him. And his only lifeline right now is the postal system, but even his mail is reviewed before he receives it.

*Music*

Schwing: During one of our phone calls, David perked up when I mentioned I spoke with Joe Asuluk, one of his elders back home in Toksook Bay. But he hasn't spoken with Joe about his situation. And even if Joe could offer him some advice and support, it's probably unlikely that he'd be able to receive it in prison right now.

Miller: Emily Schwing reported this story from Alaska.

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