**Flesh for Fantasy: The Question of Justice in the Alfred Packer Case**

**Tyler:** Hi it's Tyler. Just a heads up here at the beginning: This episode contains graphic discussion of murder and cannibalism.

[Music]

**Noel:** If you’re like we were before we produced this story, the only thing you know about Alfred Packer, if you know anything at all, is that he was a cannibal.

**Tyler:** The word “cannibal”, or *canibal*i*smo*  in Spanish, is likely a word born from Christopher Columbus’ total misunderstanding of where he actually was when he arrived in the Caribbean in 1492.

**Noel:** The issue of whether any of the peoples of the Caribbean actually engaged in cannibalism is incredibly controversial and complicated. But whatever the truth, Columbus wrote of them, quote “As for monsters, I have found no trace of them except at the point in the second isle as one enters the Indies, which is inhabited by a people considered in all the isles as most ferocious, who eat human flesh.”

**Tyler:** But Columbus thought he was in east Asia. And when the indigenous people told him they were the Carib [car-EEB] people , he heard Canib [khan-EEB], or Caniba [khan-EE-ba], because he thought they were the subjects of the Grand Khan, who ruled on the other side of the globe.

**Noel:** And that grand misunderstanding of where he was, and of who the Carib people were, thus gave rise to the fearsome and feared word: “cannibal.” And the word became synonymous with all Native people in the imaginations of Europeans.

**Tyler:** The fear and disgust that single word evokes would have dire consequences for the indigenous populations of North and South America for the next 500 years.

[quick music]

**Noel:** The history of cannibalism among white settlers holds an equally lurid fascination in the culture of the American West.

**Tyler:** For example, the Donner Party is still morbidly famous almost two hundred years after eating the flesh of their deceased fellow travelers to survive in the Sierra Nevadas in the winter of 1846-47.

**Noel:** And members of John C. Fremont’s expedition party have always been remembered for having to eat the body of their fellow explorer Henry King in the San Juan mountains during the winter of 1849.

**Tyler:** Then, perhaps most famously, at least here in Colorado, there’s Alfred Packer.

**Noel:** In the nearly 150 years since his infamous excursion in the San Juan mountains during the brutal winter of 1874, Packer has become a kind of an anti-folk hero--the kitschy two-dimensional embodiment of evil, and an outright joke.

**Tyler:** In 1968, students at CU Boulder named their new cafeteria “The Alfred G. Packer Memorial Grill” and adopted the slogan, “Have a Friend For Lunch”.

**Noel:** In 1999, South Park creators Trey Parker and Matt Stone, both of whom went to CU Boulder, made a musical comedy about Packer called *Cannibal: The Musical.*

*[Clip from Cannibal: The Musical]*

 **Tyler:** And, more recently, on April 12, 2019 comedians Karen Kilgariff and Georgia Hardstark did a live performance of their massively popular podcast, *My Favorite Murder* at the Bellco Theater in downtown Denver.

**Noel:** And of course, which alleged murder did they choose?

**[My Favorite Murder, Episode 171, 105:43]** *“I’m about to do the story of The Colorado Cannibal, Alfred Packer…”*

[Music]

**[My Favorite Murder, Episode 171, 146:35 …** *“God help me. Almost there. The trial lasts 7 days. Alfred’s found guilty of the crime, sentenced to hang on May 19, 1883. His lawyers, however, find legal loopholes that allows him to dodge his death sentence and they’re like “You know, eat what you want man”***+ audience laughter]**

**Noel:** But what if Packer got a bum rap?

**Tyler:** What if he was just the wrong person...

**Noel:** In the wrong place...

**Tyler:** At exactly the right time?

**[Theme post]**

**Tyler:** From History Colorado Studios, this is *Lost Highways: Dispatches from the Shadows of the Rocky Mountains*. I’m Tyler HIll.

**Noel:** And I’m Noel Black.On this episode, we’ll take a closer look at the Alfred Packer story. From the time it happened, it was a near Biblical morality tale — a kind of Cain and Abel story of good and evil for the new Eden of the rapidly expanding United States.

**Tyler:** We’ll also look at facts from the Packer case that have come to light more than a hundred years after his alleged crimes that show he may not have been the villain everyone wanted, *and wants* him to be.

**Noel:** Finally, we’ll consider the broader historical backdrop of the times and look at how sensationalized stories like Packer’s raise much larger questions about what justice means, and who it serves in the American West.

**Tyler:**  To get the full story behind the legend of Alfred Packer, we met with CU Professor Tom Noel, aka Dr. Colorado, author of 55 books and counting on Colorado History.

**Tom:** Well, Alfred Packer, "The Colorado Cannibal," perhaps the most sensational character in Colorado history, was born in Pennsylvania. He served in the Civil War. He was an epileptic all of his life. He was thrown out of the army for that. As a matter of fact, having the seizures, he rejoined, but was thrown out again, but he actually had been an apprentice and learned the shoemaking trade. So technically he is a shoemaker.

**Tyler:** But Packer wasn’t much interested in shoes. So he made his way out West after the war and picked up odd jobs.

**Noel:** Like so many men in the West at that time, he took up mining.

**Tyler:** And in the early 1870s he worked in the copper mine in Bingham, Utah that was famous at the time as quote “the largest hole in the ground on Earth.”

**Noel:** But while working a company mine was fine for a day’s wages, the dream was always to find your own vein and strike it rich.

**Tyler:** There were still plenty of Gold and Silver claims to be had in Colorado after the 1859 mining frenzy known as ‘The Pikes Peak Gold Rush.’

**Noel:** And now, in the early 1870s, there was a new rush in southwestern Colorado known as the “San Juan Excitement.”

**Tom Noel:** And some Utah prospectors who have gold fever and silver fever, hear about the strike in the San Juan Mountains in southwestern Colorado. And they're determined to get in there early and strike it rich. The American Dream that Mark Twain called it "the get rich quick disease" where Americans no longer want to work on dad's farm or in the store or something like that. But want to head west and strike it rich and retire, retire early, this becomes the great American dream. And these prospectors in Utah certainly had a bad case of that.

**Noel:** It’s unclear whether Packer had even been to the San Juans. But he was something of a grifter, and he convinced the group of 21 relatively inexperienced prospectors that he knew the way. So they hired him on as their guide.

**Tyler:** But it became clear pretty quick that Packer was no guide. Here’s historian David Bailey, retired curator of the Western Museum of Colorado.

**David:** They were headed for the San Juan excitement, which is like southwest Colorado and they were kind of a ragtag group. They got to the Green River, and tipped over their raft, and lost all their food. So they were eating basically horse barley and pretty much starving, and they got south of Grand Junction Delta, Colorado.

**Noel:** Shortly thereafter, winter came early and hard, and Packer was under-prepared. His clothing was inadequate. And he had almost no rations.

**Tyler:** On top of that, almost no one liked him. He was annoying--a character trait punctuated by his high, squeaky voice.

**Noel:** Plus, his epileptic seizures wouldn’t have been well understood at the time.

**Tyler:** Packer also seemed to be overly concerned with how much money everyone had.

**Noel:** And he was ill-tempered.

**Tyler:** And stubborn.

**Noel:** And prone to argue.

[Music]

**Tyler:** One of his travel companions later wrote in a letter to the parole board at the State Penitentiary that Packer was *“a man without character.”* But in spite of Packer’s questionable personality, he somehow managed to lead the party to the foot of the San Juans on the Western Slope of Colorado just as winter settled in.

**Noel:** But what Packer and his party didn’t know, was that they had crossed over into Ute territory. And they were met there near what’s now Montrose, Colorado that January of 1874 by the Tabeguache Ute Leader, Ouray, and 50 of his warriors.

[Music]

**Noel:** Ouray is an incredibly complex and controversial figure in Colorado and Ute history. He was born and spent much of his youth at the Taos Pueblo in what’s now Northern New Mexico.

**Tyler:** Taos Pueblo was a cultural and trading hub for many tribes in the southwest at the time, and Ouray had enormous intellectual and physical gifts. He learned to speak five languages: Ute, Apache, Spanish, English, and a sign language used for trading.

**Noel:** Regina Whiteskunk Lopez is a member of the Ute Mountain Ute Tribe in eastern Utah. She says the Ute people have a reputation for being gruff, but that Ouray was different in many ways. And he was more amicable toward white settlers.

**Regina:** He was a very, very well-spoken gentleman, and he did have some great thoughts in the realm of not wanting to create confrontation, but rather to be a solution-minded individual.

**Noel:** As a result, Ouray was often at the table as an interpreter during treaty negotiations with the US government. And white negotiators often presumed Ouray spoke for all Ute bands.

**Tyler:** Ouray had also been largely conciliatory to white prospectors, settlers, and Indian commissioners from the US Government who kept pushing the Ute farther and farther West off the land on which they’d lived and hunted for centuries.

**Regina:** He'd just seen that a lot of this was inevitable. This was going to come. How do we try to move forward with this?

**Noel:** When gold and silver were discovered in the late 1850s, prospectors came to Ute territory in droves.

**Tyler:** The Ute had many encounters with trappers and miners on their land in the early years of westward expansion. And they tolerated the newcomers with few issues.

**Noel:** But after the discovery of gold in the Rockies, and the Pikes Peak Gold Rush of 1859, the US formed the Colorado Territory in 1861, in part, to secure the wealth just as the south was seceding and the Civil War began.

**Tyler:** Ouray traveled to New York and Washington DC to sign the Treaty of Conejos in 1863.

**Noel:** The treaty would require the Ute to cede most of the land east of the continental divide to the US, and few of the other leaders were behind it. But Ouray saw what they were up against. He saw the scale of the American cities and the sheer numbers of white people, and he signed.

**Regina:** And he's viewed as somewhat of a sellout to the federal government because of that.

**Noel:** But it’s also important to note that the Ute had a fundamentally different relationship to land than the largely Anglo and European settlers.

**Regina:** We are in a relationship with where we live at. We refer to the earth that is beneath our feet as our mother earth. We have the father sky. Family members, very close to us. You would never own your mother. You would never own your father. The concept of ownership of even water now is something that when you think about our ancestors and even our grandparents, that is something they would have never conceived of.

**Tyler:** In 1868, the noted Army guide and scout Kit Carson helped the United States negotiate another treaty with the Ute. This time, it pushed the tribes onto an even smaller reservation, farther west and south in the Colorado Territory. But it was still a huge area. About a third of what is now Colorado.

**Noel:** Forty-seven Ute Tribal Leaders signed the treaty this time. They hoped the US Government would honor their promise to provide money and food for the Ute in exchange for their loss of historic hunting and fishing grounds.

**Tyler:** But like countless other treaties the United States negotiated, it was quickly broken. And in 1873, the government wanted even more Ute territory as more gold and silver were discovered in the San Juan mountains of southwest Colorado.

**Noel:** And the San Juan Mountains sat right in the middle of the 1868 Ute reservation boundaries.

[Music]

**Noel:** Ouray had closely watched the growing numbers of prospectors trespassing on their reservation. He saw no way to stop them short of an all out war that would almost certainly mean mass casualties, if not the end of their people.

**Tyler:** The United States sent an agent named Felix Brunot to negotiate with Ouray and other Tribal Leaders.

**Noel:** He was supposed to fix the problem of miners trespassing on Ute land.

**Tyler:** The talks would result inThe Brunot Agreement, which essentially gave the San Juan mountains to the United States for mining.

**Noel:** But the land was supposed to be returned to the Ute once it had been mined.

**Tyler:** Because the Ute didn’t want white people settling and competing with them for food and game.

**Noel:** But that didn't happen. And the Ute never got their land back.

**Tyler:** But despite all the bad faith, broken treaties, violence, massacres, and relocations, Ouray was still willing to work with the white Americans he encountered. And Packer’s party was no exception. Here’s David Bailey again:

**David:** He asked them what they were doing, because they didn't mind if they were prospectors, but they didn't want anyone trying to settle on their land. So they invited them to their camp, and told them, you know, they were pretty much starving. So they got a bunch of food for them and they said, just wait it out, because January, February and March is treacherous weather in the mountains. He said, you don't want to go up there now because you might get trapped in a snowstorm and die.

**Tyler:** So Ouray’s tribe, the Tabeguache [TAB-A-WATCH], took Packer and the twenty-one prospectors in. He gave them a campsite, sold them food, and said they could stay until the weather let up in the spring.

 **Noel:** But not a week later, in February 1874, when the weather was even worse, Packer and five other men -- Shannon Bell, Frank Miller, George “California” Noon, James Humphrey, and Israel Swan – set off into the San Juans to stake their claims.

**Tyler:** Ouray warned them not to go. He knew the land and the weather in the San Juans, and saw that it was going to be a brutal winter.

**Noel:** But the rumors of gold and silver couldn’t wait for Spring.

**[Footsteps in snow]**

[Music]

**Noel:** On April 16, 1874, two months after leaving Ouray’s camp near Montrose in the middle of a bitter winter, Alfred Packer walked out of the San Juan Mountains... alone.

[Music]

**Tyler:** According to the accounts documented in letters, diaries, and court transcripts, when Packer arrived at the Los Pinos Indian Agency outside of Saguache in the San Luis Valley, he didn’t look too much worse for the wear.

**Noel:** He claimed that his companions had starved to death, but that he’d survived the brutal winter on rabbit and rosehips.

**Tyler:** But to those around him, he looked well-fed and didn't seem too interested in food. And was spending a lot of money on whiskey.

**Tom Noel:** And he was known to have gone into the San Juans as a poor man with very little money. But he showed up with a lot more money that he had taken off of bodies, it was discovered later. So he spends a lot of time drinking at Larry Dolan’s Saloon in Saguache Colorado, where people wonder a little bit about him, and some of the rest of that original party of twenty-one are still around. And they say, "Where are our sidekicks, where are our chums, what happened to them?”

**Noel:** Preston Nutter was one of the men from Packer’s original party of prospectors from Utah who’d stayed in Ouray’s camp for the winter. When he saw Packer in Saguache, he recognized a knife on his hip that belonged to one of their missing companions.

**Tom Noel:** Packer explains that they’d starved to death, he was the only one who had survived.

**Noel:** But people had their doubts.

**Tyler:** And that summer, a search party was formed to find the five missing men. But the snow was still deep in the mountains. And though Packer led the way, he seemed hesitant and confused. Then, he attacked one of the other men in the search party with his knife.

**Noel:** They threw him in jail just to be safe.

**Tyler:** And in August, an artist from *Harper’s Weekly* there to look into the disappearances came across the bodies not far from what’s now Lake City. It wasn’t clear how they died, but some of the corpses were dismembered, and all were missing strips of flesh.

[Music/Funder]

**Noel:** After the corpses of his companions were discovered, Alfred Packer broke down and made his first of three confessions.

**Tom:** He says, well, yes, we did have to resort to cannibalism, but I didn't start it. Somebody else started, I think it was California Moon, California, that killed somebody and ate them, according to Packer. And then it becomes a matter of who's next. And you all look around at each other at the campfire and say, who would be tastiest and who would not survive anyway. So according to Packer, some of this was mercy killing, that they were in such bad shape.

**Tyler:** Whatever the truth was, three things were clear:

**Noel:** One, Packer had lied;

**Tyler:** Two, Packer was the only one alive who knew what actually happened;

**Noel:** And three: Five people were dead and half-eaten.

**Tom Noel:** And when this article comes out and it becomes a national sensation about, they're already calling him “The Colorado Cannibal” because there's plenty of evidence that these folks had been munched upon.

**Noel:** Whether he killed the men he ate was beside the point. He was immediately found guilty of cannibalism in the court of public opinion, nevermind that, technically, it wasn’t a crime.

**Tyler:** After the discovery of the bodies, Packer was thrown in jail in Saguache to be held until he could be sent to Denver for trial.

**Noel:** What most found unlikable in Packer, however, some found sympathetic. And the prospect that he might face the gallows seems to have led one of his jailers to take pity on him.

**Tyler:** Either that, or they just didn’t want to pay to keep him in jail, where he’d been taking up the needed space for months

**Noel:**  Either way, Packer got out and disappeared.

**[Music up]**

**Noel:** Little is known about where Packer went in the years that followed.

**Tyler:** He adopted at least one alias, and seems to have stayed out west, working odd jobs in sparsely populated towns, on farms, or on ranches.

**Noel:** A reward had been set on his head. And one day, nine YEARS later, one of his original companions recognized his distinctive, high-pitched voice near Fort Fetterman, Wyoming.

**Tom Noel:** He also had lost the tips of two of his fingers, his middle finger on the left hand, and the index finger. So that was a pretty distinguished characteristic of him, that, and the speech.

**Tyler:** Packer was arrested and taken to be tried in Lake City, the town that had somewhat recently popped up during the mining boom not far from the campsite where the mutilated corpses were found.

**Noel:** Not surprisingly, he was pronounced guilty by the press before he even arrived.

**Tyler:** *Silver World* Newspaper referred to Packer’s “Native fiendish spirit”.

**Noel:** The *Leadville Daily News* wrote of Packer’s “hellish crimes” and called him “one of the most noted murderers of the 19th Century.” On top of everything else, he became a CELEBRITY cannibal murderer.

**Tyler:** *The Rocky Mountain News* called him “Man Eater,” “Mad Man,” “Murderer,” “Outlaw” and described his “Villainous and ugly face.” At one point, they called him “a poisonous reptile.”

**Noel:** And, this was all BEFORE his trial.

**[Musicks]**

**Noel:** To this day, there's not a single Federal Law in the United States criminalizing cannibalism.

**Tyler:** And despite the fact that Packer had confessed to KILLING Shannon Bell, he claimed it was in self-defense. There was no evidence that he'd MURDERED anyone.

**Noel:** Nevertheless he was tried and convicted of murder and sentenced to death on May 18th, 1883.

**Tyler:** His death sentence was soon overturned on the technicality that Colorado wasn’t yet a state when Packer had committed the alleged murders.

**Noel:** Then, the conviction was reduced from murder to manslaughter in a second trial several years later.

**Tyler:** Regardless, Packer still spent the next 16 years of his life at the newly built Colorado State Penitentiary in Cañon City.

**[Music out/]**

**Tyler:** Because of the gruesome nature of what happened and the accounts of his unlikable ~~nature~~ and conniving personality, only a small handful of people ever really cared whether Alfred Packer actually murdered his companions in cold blood.

**Noel:** And in the 150 years since Alfred Packer’s alleged crimes, as his story became legend and the tragedy became farce, only a small handful have tried to prove his innocence.

**Tyler:** In the early 20th Century, a newspaper columnist named Leonel Campbell Ross O'Bryan, who went by the pen name of Polly Pry, took pity on Packer and began to lobby for a retrial or a pardon.

**Noel:** Pry was among a generation of women stunt reporters at papers across the country who would interview notorious criminals or spend time as a committed mental patient to expose societal ills from a first person perspective.

**Tom Noel:** She was probably the leading columnist for *The Denver Post* at that point.

**Tyler:** Tom Noel.

**Tom, cont’d:** And she talks editor Bonfils, Frederick Bonfils, the owner of *The Post*, into sponsoring her to do a series of articles about Alfred Packer and lead a campaign to free Alfred, that this poor guy has been accused falsely of murder. And what else would you do if you were in there starving in the San Juans, and that he’d been a model prisoner ever since.

**Tyler:** Packer had been in prison for 16 years at this point. And Pry used her column and her colorful prose for years to raise awareness of Packer’s case.

**Noel:** She went to Cañon City to interview him, and spent time in a cell at the State Penitentiary to drum up sympathy in passages like this:

**Polly Pry 5:** It was undoubtedly this insane prejudice, this wild clamor from an unreasoning crowd, which influenced the court to make the unjust and harsh rulings that it did, and not alone to impose that extraordinary and brutally severe sentence, but to do it in language that chokes the reader. And this same curious prejudice is undoubtedly to blame for the attitude of the press throughout the state, with the absurd cries of “cannibal” and “man-eater.” It is truly a marvellous thing, but in talking with many of the brightest public men of the state, they do not hesitate to say that the possibility of Packer’s being innocent had never really occurred to them before; they had simply been horrified at the charge, accepted the sentence of the court as a just one, and been unconsciously influenced by the sensationalism of the press.

**Noel:** Polly Pry got that Packer’s trial was a done deal before he set foot in the courthouse. His story had been told by a press as bloodthirsty as they claimed Packer was. But even for Pry, liking Packer wasn’t easy.

**Polly Pry 7:** His curiously repellent manner and lack of magnetism, and more particularly, the intensely dramatic features of his case have been of untold harm to him. His skin is a white, chalky, unpleasant white, and his goatee and mustache are a dead, lustreless black. His thin hair, which he parts low and one side and combs with a curious circular sweep over his forehead, is of the same sable hue. And his hand, which he offered me when leaving, slipped from mine like a lifeless thing, and yet itlooked strong.

**Tyler:** Despite his unlikability, Pry’s efforts helped secure Packer’s parole in 1901. And he lived out the last 6 years of his life in Littleton, Colorado, south of Denver until his death in 1907.

**Noel:** People who met him said he was kind, generous, and good with children.

[Music]

**Noel:** And so the stories went for about a hundred years. No matter whether he was Packer the Man-Eater, Packer the punchline, or Packer the Misunderstood.

**Tyler:** But it was always sure to generate headlines and buzz. As we mentioned earlier, the students at CU Boulder named their cafeteria after Packer. And in 1980, a highly sensationalized B Movie biopic called *The Legend of Alfred Packe*r premiered.

**Noel:** Then, in the late 1980s and early 90s, there were a whole bunch of advances in forensic science that helped solve cold cases , and a new era began for those hoping to find out, once and for all, what actually happened in the San Juans that brutal winter of 1874.

**Tyler:** A professor of Forensic Science at Georgetown University named James E. Starrs and his Colleague Walter H. Birkby decided to conduct a new investigation in 1989. They found the burial site of the five bodies near the driveway of a home in a housing development in Lake City.

**Noel:** The bodies were exhumed and re-examined. And Starrs concluded that evidence of blunt force trauma to all five of the skulls suggested that Packer had in fact murdered all of them.

**Tyler:** It was around that same time when historian David Bailey came across an unusual Colt pistol in the collection of the Museum of the Western Colorado in Grand Junction.

**David Bailey**: Well, it kind of started out. I was doing an inventory of our firearms collection at the Museum of the West, that's a division of the museums of western Colorado. But we have a pretty famous firearms collection with, you know, Buffalo Bill, and a lot of famous notables of the West, but one had a little card that said found at the Alfred Packer murder site, and I kind of took it like “Is that for real?” The Colt pistol was a conversion pistol. It was a five shot. It had been Cap and Ball. And then was converted to fire cartridges.

**Tyler:** This kind of pistol was common among Civil War vets in the late 1800s who came west.

**David Bailey**: And it was excavated by a pretty well-known archaeologist, Ernest Ronzio, who is a student of C.T. Hurst, who's kind of the father of Colorado archeology. And he had found it at the Packer site, and turned it over to Western State. So that really got me interested. Because it actually tied the weapon, it was actually excavated by an archeologist and found at the site. So that kind of piqued my interest.

**Tyler:** The gun would have been little more than a curiosity if it weren’t for a detail in Packer’s final deathbed confession about the incident, which was written down in 1907 by Hugh O’Neil, the editor of the *Denver Post*.

**Noel:** In Packer’s two earlier confessions, including his testimony at trial, he said he’d shot Shannon Bell in self-defense with his Winchester rifle.

**Tyler:** But in his third and final confession, his memory of how he killed Shannon Bell was different.

**David Bailey:** And he said that he shot the real killer with a small pistol. So that was kind of the connection I needed to connect the pistol to Packer.

**Noel:** Not only that, but Packer said he’d shot Bell twice.

**Tyler:** And the 5-shooter gun that Ronzio found at the Packer site…?

**Noel:** They found it. It had 3 bullets still in the chamber. Two shots had been fired.

**Tyler:** Bailey went back and looked at James Starrs’ forensic report on the remains of Packer’s companions that he’d dug up and examined in 1989. And he noticed that the skeleton thought to be Shannon Bell’s had a large round hole in the hip bone.

**Noel:** The hole was too clean for a rifle shot, which would’ve shattered the bone. But if he’d been shot with a Colt revolver converted from cap and ball to cartridges…?

**David Bailey:** So if you shot someone instead of shattering the bone, it'd make a perfectly round hole, which is what they found in Shannon Bell's bone. And then we actually took the same pistol, a modern one with the same load and shot an elk bone. And it made that same exact pattern -- perfectly round.

**Tyler:** But that hole in Shannon Bell’s hip only accounted for one of the two bullets Packer claimed to have shot.

**David:** I knew that Shannon Bell had been shot in the hip with that gun. But where was the other bullet? But then as I was reading the trial transcripts, I found out the other bullets they used to have, those long wallets they have in their front pocket. They found another bullet lodged in that wallet.

**Noel:** Bailey had a solid theory, but he needed definitive evidence if he was going to prove Packer’s innocence for the murders beyond any doubt.

**Tyler:** So he put together a group of scientists and historians from different disciplines called The Western Investigations Team.

**Noel:** And in the year 2000, Bailey and his team began retesting the artifacts and evidence James Starrs had dug up a decade earlier.

**Tyler:** One of those pieces of evidence was a fragment of lead found in the soil near where Shannon Bell’s body was buried.

**Noel:** They tested that lead fragment against the lead from the three remaining bullets in the gun.

**David:** but the lead that they found, in the lead in the gun were identical match. And because we know that Shannon Bell was shot with a bullet, and that bullet from that gun. So I had that connection.

**Tyler:** Once The Western Investigations Team had made the connection of the lead to the gun, the international media went wild with the news of the possibility that Packer, one of America’s favorite western villains, might be innocent.

**David Bailey:** Everything that Packer said, you know, we proved scientifically that that seems pretty conclusive, that he was telling the truth.

**Noel:** In 2004, National Geographic came calling, and the History Channel funded a second, made-for-TV excavation of the campsite where the bodies were found.

**Tyler:** In some ways, David Bailey and his team’s research into the Packer case led to the template for the whole genre of forensic history TV shows that have became popular on TLC and The History Channel.

**Noel:** There's really know way to know, purely from these new discoveries, whether or not Packer acted in self-defense. So just as before, experts put it to a jury. Using the new evidence they’d found, Bailey and a group of Colorado historians staged a series of re-trials throughout the state.

**David Bailey:** and you know, overwhelmingly found him innocent.

[Music, triumphant-ish perhaps]

**Noel:** And so justice was delivered, it seems, for Alfred Packer more than a century after his conviction.

[...Long pause… swelling music that stops suddenly with the needle scratching across the record sound effect, lol]

**Tyler:** But there’s something about this conclusion that doesn’t quite work.

**Noel:** I keep going back to that moment when Packer and his companions were taken in by Ouray and the Tabeguache before they went into the San Juans. They’d already realized Packer had almost no idea what he was doing or where he was going. They’d already nearly died trying to ford the Green River and lost all their rations, AND they’d nearly starved to death before Ouray took them in…. And I can’t help but think that even if Packer did kill his companions in cold blood and eat them, didn't every single one of them, including Packer, get justice on a more 'cosmic scale' for their hubris and greed alone…. for ignoring Ouray’s advice?

**Tyler:** Not to mention that this group of incompetent white men wouldn't have even been able to go into those mountains in the first place, if a series of betrayals by the US government hadn't paved the way.

**Noel:** Packer and his party showed up at Ouray’s camp at the foot of the San Juan Mountains just months after the Brunot Agreement had essentially forced the Ute onto a small reservation in the southwest corner of the state.

**Tyler:** But even before that, a series of broken treaties had already shrunk Ute land down into progressively smaller parts of the territory that was soon to become Colorado.

**Noel:** It started with the Treaty of Conejos in 1863 that pushed them into the Western half of the state after gold and silver were discovered during The Pikes Peak Gold Rush in the last 1850s.

Then, it was shaved down again to the Western third of the state with the so-called “Kit Carson Treaty” of 1868 as more precious metals were discovered.

**Tyler:** And by 1873 with the Brunot Agreement, the Ute were left with only a relatively small rectangle in the southwest corner of the newly-formed Colorado Territory.

**Noel:** Among other concessions, the Brunot Agreement had promised the Ute access to their ancestral hunting grounds in perpetuity.

**Tyler:** But soon, the settlers and farmers who came after the miners set up fences and cut off access to those lands.

**Noel:** It was at this time, just as the Ute had been all but run out of the state, that Packer and his companions came along.

**Tyler:** To better understand the significance of Packer’s story AS A NARRATIVE, and the role it played at this moment in the history of The United States, we called Dr. Megan Kate Nelson.

**Megan Kate:** I'm a historian and writer. I was born and raised in Colorado, but now I live in Lincoln, Massachusetts.

**Noel:** Nelson studies the way narratives written by surveyors, soldiers, and government agents portray the west.

**Megan Kate:** I have been very interested in the kinds of stories we tell ourselves and the kinds of stories that get published and widely distributed about the West. And how those contribute and have contributed to all kinds of federal policy involving indigenous peoples and migration and homesteading and all of those kinds of developments.

**Noel:** Nelson says that popular narratives of the west in the early 19th Century tended to pit white explorers or settlers against American Indian threats. The story of John Colter, a hunter and guide, for example, was widely read.

**Megan Kate:** He went out, you know, subsequent to the to the Lewis and Clark expedition. And ended up being captured in the northwestern mountains and forced to to run for his life through the Rockies. And was completely naked and somehow, kind of outran his pursuers, and survived to tell the story. And this kind of combined an older genre of American storytelling, which was the captivity narrative, in which both men and women were sort of captured by Native people and then somehow endured this trial and survived and came back to civilization. And but this is a kind of new version of that, which stars a kind of singular white man who is supposed to know the wilderness well and then somehow gets lost. And in the early versions of these stories, indigenous peoples are always the enemy.

**Noel:** These stories were meant to reassure the expanding young nation that it was the protagonist of its own narrative, and that it would overcome any villainous native threats.

**Tyler:** What’s interesting about the Packer story, says Nelson, is that it takes place at a time when narratives set in the West were shifting.

**Noel:** Rather than the lone white explorer vs. American Indians, popular stories in the late 1800s were more often about white explorers vs. Nature.

**Megan Kate:** the U.S. government succeeded in driving a lot of native peoples onto reservations by this point. And so I think to some extent, white Americans believed that the quote-unquote, "Indian problem" had already been solved.

**Tyler:** American Indians, if they hadn’t already been killed, were being erased from white American memory so the country that had been colonized could become a blank slate in its own imagination, a new Eden.

**Noel:** Nelson says these man vs. nature stories were epitomized by the account of the Yellowstone surveyor Truman Everts who got lost while mapping the future park.

**Megan Kate:** And Truman Everts, when they finally find him. A bounty hunter, kind of finds him, who’s set out to look for him because there’s a reward, finds him and he is skin and bones, basically. And he has, you know, lost 50 pounds and is barely recognizable. And so they go through a physical transformation in the wilderness. But then they survive that to come out as a a strongerer sort of white man. And it's a symbol of conquest. That they have managed to to sort of undergo this trial, and then be victorious in the end over nature and all the forces of nature that have tried to kill them. And interestingly, in a lot of these later narratives, like the Alfred Packer narrative and with Truman Everts also, Native people no longer appear as the aggressor. It's nature that's trying to kill them.

**Tyler:** Alfred Packer’s first confession, in which he survived the winter alone on nothing but rose hips and rabbit, follows this sensationalized and ideologically-loaded narrative arc in almost every regard.

**Noel:** He was a veteran of the Civil War, and a guide. The party he led faced peril at every turn. The natives they encountered helped them, but couldn’t hold them back from their quest. The quest went wrong. Yes, some men died. But Packer survived, a rugged individual alone against the wilderness.

**Tyler:** But as every podcast host hopes to one day say: “there was just one problem…”

(Music)

**Noel:** Let’s go back to the origins of the word “cannibalism” again. It’s a word that originated with Christopher Columbus as he surveyed the Caribbean. It was born from a misunderstanding not only of where he was, but of a group of indigenous people he encountered.

**Tyler:** And it was ultimately used by the crown of Spain to dehumanize the people of the Americas. It helped justify a centuries long campaign of conquest, terror, enslavement, and genocide.

**Noel:** That campaign was picked up and continued by Anglo colonists when they arrived in North America in the 1600s.

**Tyler:** By the time many Americans turned their attention west in the early 1870s, the Civil War had nearly torn the country apart.

**Noel:** The Homestead Act had let settlers loose in droves, and the Transcontinental Railroad had reached the West coast.

**Tyler:** American Culture needed to cast the West as a new Eden, a blank slate of nature.

**Noel:** It needed new stories with new villains. And Packer fit the bill.

**Tyler:** Like the snake in the garden, or the Carib people of the so-called West Indies, Packer was just the right devil for a country writing a new Genesis, a new creation myth.

**Noel:** And he was part of a much larger melodrama, the dastardly villain to the cast of white savior scouts like Kit Carson who filled dime novels with the endless tales of their heroics.

**Megan Kate:** So you have David Crockett as part of that tradition. And then later, Buffalo Bill Cody will kind of take that to its extreme with his Wild West show. You know, people find this endlessly entertaining. And we you know, we still see this even today in any kind of popular culture, television show or movie that is a Western in any kind of way always has this kind of figure. His story actually is interesting because because it combines this genre of the wilderness survivalist with the crime genre, of you know, the multiple murders, which is also part of the penny press and and kind of cheap paperbacks. These kind of lurid stories of crime.

**Noel:** And it’s a genre that’s still popular 150 years later.

[Replay **My Favorite Murder, Episode 171, 105:43** *“I’m about to do the story of The Colorado Cannibal, Alfred Packer…”*]

**Tyler:** There’s so much history packed into that one word: Cannibal.

**Noel:** And there’s so much history we don’t talk about when we continue to tell Alfred Packer’s story.

**Tyler:** Here’s Christiana Gregoriou. She’s a linguist at Leeds University in England who studies the way language of TRUE crime narratives parallels the language of FICTIONAL crime narratives.

**Christiana:** The most interesting thing I've found, I guess, is that there's no crime or no reference to crime anywhere without a narrative. And what's worth doing is looking at the nature of that of that narrative. So looking at the elements, and looking at the fictionalization, I guess, of of those elements and so on. And I guess one of the things I was very much struck by, is that the nature of those true accounts wasn't dissimilar to the fictionalized accounts~~.~~

**Noel:** In one instance, Gregoriou studied the language used to describe three different murders that were written about in British newspapers. Two were serial killings of sex workers, and one was a murder of a single white woman.

**Christiana:** So the, the one that attacked the sex workers was described as killing them, whereas the one that attacked this supposedly innocent, beautiful young woman, who was interestingly described as a model, was referred to as butchering her. These victims were described in that one sentence. I think there was a references to the... Younger women by their names and the sex workers as sex workers without the need to kind of even give them names or any other kinds of descriptions.

**Noel:** In other words, it isn’t just about the stories we tell. It’s about the language we use~~.~~

**Tyler:** Here's Terrion Williamson.

**Terrion**: I am Associate Professor of African-American and African Studies, and the Director of the "Black Midwest Initiative" at the University of Minnesota.

**Tyler**: She saw firsthand that these narrative injustices still shape the discourse and the court of public opinion when she began looking into the murders of nine Black women that happened in her home town of Peoria, Illionois.

**Noel:** The murders received disproportionately little press coverage. And Dr. Williamson says that, whether we're talking about survival tales of white colonizers on the frontier, or the voyeuristic details of Netflix's serial killer du jour, the stories we tell ourselves say a lot about our culture's values and motivations.

**Tyler:** Just like the salacious details of the Packer story obscured the systemic injustices at play, Williamson says that the mainstream news media rarely, if ever, cover crimes against black women in the sensational way it covers crimes against white women.

**Terrion:** Indeed what I had thought was sort of an anomaly that had happened in my hometown was not an anomaly. That actually cases like what had happened in my hometown had happened over and over and over again in other communities throughout the United States.

**Tyler:** Dr. Williamson, like Dr. Gregoriou, closely studied the language used to describe certain victims.

**Terrion:** We're typically talking about poor black women who are involved in the sex trades, and who are often are also drug-addicted. Like those things go hand in hand. They're involved in the sex trades because they're drug addicted. Well, you know, those don't make the kind of victims that people want to spend a lot of time on.

**Tyler:** Dr. Williamson says that part of the problem with stories like the Peoria murders is that no one tells them.

**Noel:** But she says the larger problem with all true crime stories, including Alfred Packer's, is just that -- they're stories -- and they tend to focus almost exclusively on individual characters.

**Tyler:** And she says that is a cop out.

**Noel:** To truly understand these kinds of crimes we have to focus not only on the killers and the victims, the Alfred Packers and the Shannon Bells, or the easily-categorized acts of individuals, but on the social conditions and context that created the circumstances for those acts.

**Terrion:** So what I talk about in my work is that I refuse the 'monster metaphor.' So I refuse the idea that what we're talking about is just the sort of crazy, you know, quote-unquote crazy person who's gone off the deep end, who we just need to get them and incarcerate them. And then so we sort of go on with life as usual.

**Tyler:** Dr. Williamson says that when we choose to focus all our stories on individuals, we miss out on opportunities to examine things systemically and holistically.

**Terrion:**And what I'm suggesting is, you know, James Baldwin says in relationship to the Atlanta murders, is like that's the kind of cowardice, that it's a cowardice to try to point the finger at an individual person. Even if it is the case that an individual person is doing the killing. Because we know, that if it was a different population of victims, it wouldn't have gone down like that. So we have to talk about, like, what are the conditions that made them vulnerable to premature death. That's what we have to actually talk about. And talking about that in relationship to other forms of violence helps us to deal with the systemic nature of these crimes.

**Noel:** And so, when we talk about justice, whether it's a serial killer or the case of Alfred Packer, we have to talk about the whole story. We have to talk about the history of the word CANNIBALISM and its relationship to the genocide of millions of people, we have to talk about his and his companions’ refusal to listen to Ouray, and the failure of the Brunot Agreement to honor its promise to the Ute to grant access to its ancestral hunting and fishing grounds.

**Tyler:** Here’s Regina Lopez Whiteskunk:

**Regina:** ...one of the greatest teachers in life, and I say this with sincere heart and a very valuable relationship is just to sit and listen to the land, listen to the trees and listen to the animals and the birds, and they will tell you what it's going to take, but they will also tell you what is not working. But we are so ingrained in the science-based, and the evidence-based way of analyzing and living, that even our connection with place and ability to open our hearts and our minds have escaped us. And now we're finding ourselves in a very Alfred Packer moment. "What do we do?".

**Tyler:** So what do we do? For one thing, says Lopez Whiteskunk, The Brunot Agreement is still in place. And we could start by honoring it in order to give tribal groups better access to their ancestral hunting, gathering, and fishing lands.

**Noel:** Beyond that, she says, people should listen to indigenous wisdom. Not listening, she adds, was Alfred Packer’s biggest mistake.

**Regina:** And what they probably shared with Alfred Packer is, you know, take this, take this kindness and take our good words. But don't stay too long. But don't go over that path. And, you know, even to this day, I can tell you this from experience, when indigenous people speak wisdom like that~~.~~ Because we're looked at and have been looked at historically as savages, uneducated and unexperienced, that what we speak of has very little value. But, you know, when it comes to fruition and we're kicking ourselves saying "Damn, I should have listened to that little Indian over there." Sometimes it's too late.

(Music)

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**Tyler:** And even if you don’t become a member, you can still get $2 off admission to any of our museums just by mentioning the podcast.

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**Noel:** Our Assistant Producer is María José Maddox. And Luke Perkins is our intern.

**Tyler:** If you'd like to see a transcript of any of our episodes, either as a matter of accessibility, or because you'd like to use Lost Highways in your classroom, you can find them at historycolorado.org/losthighways.

**Noel:** Tyler Hill, my co-host, composed the music for this episode. Our theme is by Conor Bourgal.

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**Noel:** Finally, thanks to the entire staff at History Colorado. I’m Noel Black

**Tyler:** And I’m Tyler Hill. Thanks for listening