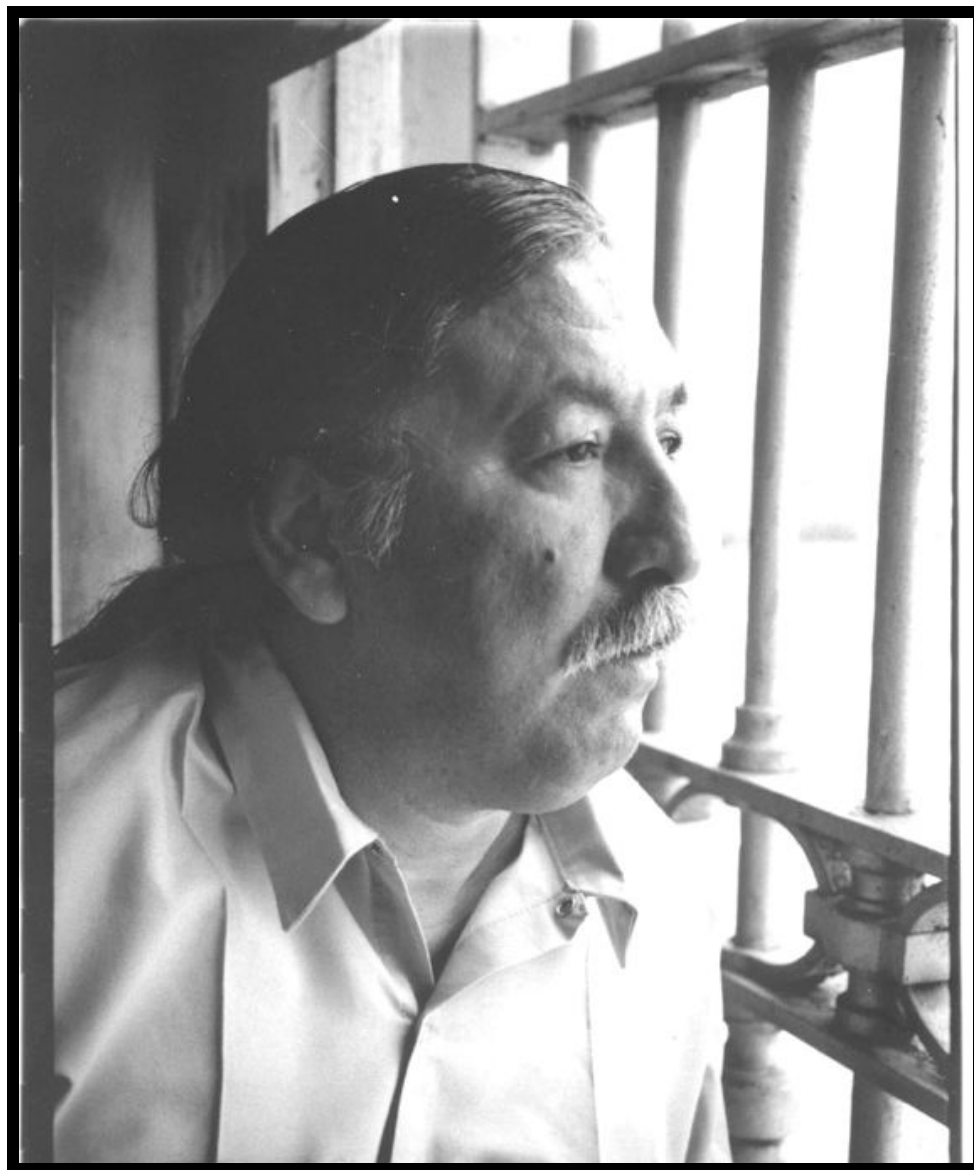


**UNITED STATES
VERSUS
LEONARD PELTIER**



EVIDENCE OF A WRONGFUL CONVICTION

*From the files of the
Federal Bureau of Investigation*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
EXCEPT WHERE SHOWN
OTHERWISE.

This is an example of the kind of
documents the FBI released after
the FOIA lawsuit was won in 1981.

Jus

CODE

.NITEL

TO LEGAT OTTAWA

FROM ACTING DIRECTOR FBI (105-203606)

1-23-84/10/73
Classified by SP5RIG/PMC

AMERICAN INDIAN MOVEMENT (AIM)
INDIAN ACTIVITIES.

Declassify on: OADR
Classified by 2933

Exempt from automatic
Date of Declassification Indefinite
AUG 10 1973

GAT/IDB

[REDACTED]

b1

b1

b1

100-462483-246

Foreign Liaison Desk (Route through for review)

- Felt _____
- Baker _____
- Callahan _____
- Cleveland _____
- Conrad _____
- Dalbey _____
- Gebhardt _____
- Jenkins _____
- Marshall _____
- Miller, E.A. _____
- Purvis _____
- Soyars _____
- Walters _____
- Tele. Room _____
- Mr. Kinley _____
- Mr. Armstrong _____
- Mr. Harris _____
- Mr. Nease _____

aso (6)

ST-103 REC-73

105-203686-385
SEE NOTE PAGE TWO

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

JAN 1 0 1973

TELETYPE

CONFIDENTIAL

MAIL ROOM TELETYPE UNIT

JAN 12 1973

Handwritten notes and signatures

To: SAC, Albany
From: Acting Director, FBI
AMERICAN INDIAN MOVEMENT (AIM)
EXTREMIST MATTERS

With this May 1973 Memo
the FBI launches its war
against the American
Indian Movement.

Re Buairtels 12/6/72 and 1/16/73 captioned "American Indian Activities, Extremist Matters."

Offices conducting preliminary inquiries relative to individual ADM chapters, if not already done, immediately submit results of investigation conducted to date in form suitable for dissemination under caption of individual chapter with recommendation relative to additional investigation. Where evidence of extremist activity or involvement by a chapter is determined or suspected, institute full and continuing investigation thereof to determine its activities, leaders, membership, and finances. Develop informants or sources in or close to each chapter. Also, institute individual investigations of members of such chapters to develop background and determine their activities and propensity for militancy or violence. Submit results thereof in form suitable for dissemination under individual's caption with your recommendation relative to further investigation.

Institute similar individual investigations of all AIM members and unaffiliated Indians arrested or involved in takeover of Wounded Knee, South Dakota, or similar confrontations or disorders elsewhere. Submit results under individual's caption in a form suitable for dissemination. If warranted, consider subject for inclusion in Administrative Index and ~~_____~~ and for designation as a Key Extremist.

EX-111 REC-49 100-462483-57
MAY 11 1973

2 - All Offices (Except Honolulu and San Juan)

- Mr. Felt _____
- Mr. Baker _____
- Mr. Callahan _____
- Mr. Cleveland _____
- Mr. Conrad _____
- Mr. DeLoach _____
- Mr. Jenkins _____
- Mr. Marshall _____
- Mr. Miller, F.S. _____
- Mr. Soyars _____
- Mr. Thompson _____
- Mr. Walters _____
- Tele. Room _____
- Mr. Kinley _____
- Mr. Armstrong _____
- Mr. Evans _____
- Mr. Harbo _____
- Mr. Mohr _____
- Mr. Nease _____

CAM:aso (117)

MAILED 21
MAY - 7 1973
FBI

SEE NOTE PAGE TWO

Handwritten notes and signatures:
1F 1/73
CMA
WGL
EMW
WPKW/TSS
L. J. [Signature]

MAIL ROOM TELETYPE UNIT

Memorandum

TO : Mr. Gebhardt

FROM : J. E. O'Connor

SUBJECT: THE USE OF SPECIAL AGENTS OF THE FBI IN A PARAMILITARY LAW ENFORCEMENT OPERATION IN THE INDIAN COUNTRY

DATE: 4/24/75

1 - Mr. Gebhardt

This document released three months before the shoot-out makes it extremely apparent that the FBI was preparing for a "major confrontation".

Asst. Dir.:

- Admin.
- Comp. Syst.
- Ext. Affairs
- Files & Com.
- Gen. Inv.
- Ident.
- Insp.
- Intell.
- Lab.
- Legal Coun.
- Plan. & Eval.
- Rec. Mgmt.
- Tech. Serv.
- Training

PURPOSE: This position paper was prepared for use of the Director of the FBI to brief the Attorney General and the Deputy Attorney General (DAG) on the role of the FBI in the event of a major confrontation in Indian country (Federal jurisdiction) where (1) the President decides against the use of troops; and (2) the FBI is ordered by the President and/or the Attorney General to deploy FBI Special Agents in a paramilitary law enforcement situation, in lieu of the use of troops.

There is attached for ready reference a document captioned "Background Paper on the American Indian and the Takeover of Wounded Knee by the American Indian Movement (AIM)." This study outlines early history of the American Indian, jurisdiction of the FBI to investigate within the Indian country, background on AIM and their record for violence, history and background concerning the Pine Ridge Indian Reservation of the Oglala Sioux Tribe in South Dakota, a prelude to the occupation of Wounded Knee, the occupation of Wounded Knee by AIM and the use of FBI, U. S. Marshals and Bureau of Indian Affairs (BIA) Police at Wounded Knee, South Dakota, during the period February 27 - May 8, 1973, in a paramilitary law enforcement situation.

Enclosure : 100-462483 CONTINUED - OVER

NOT RECORDED

JCG:mel/rlf (11) 48 AUG 11 1975 SEE ADDENDUM, 5 PAGE 16/1975

What is the status of this situation at this point. In a conference with AS Saffre we had a tentative agreement to our position. Was it finalized?

AUG 14 1975

E 9

Memorandum

Assoc. Dir. _____
Dep. AD Ad. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Dep. AD Leg. _____
Dep. AD Plan. & Eval. _____
Dep. AD Rec. Mgmt. _____
Dep. AD Tech. Serv. _____
Dep. AD Training _____
Telephone Rm. _____
Director Sec'y _____

TO : Mr. J. P. [redacted]
FROM : Legal Co. [redacted]
SUBJECT: SENSTUD [redacted]

DATE: 6-27-75

The day after the shoot-out the Senate Select Committee halts its investigation into reported FBI misconduct in regards to AIM and the people of the Pine Ridge Reservation.

D. J. [redacted]

Attached is a letter from the Senate Select Committee (SSC), dated 6-23-75, addressed to the Honorable Edward H. Levi. This letter announces the SSC's intent to conduct interviews relating to Douglas Durham, a former Bureau informant. The request obviously relates to our investigation at "Wounded Knee" and our investigation of the American Indian Movement (AIM). This request was received 6-27-75, by Legal Division.

On 6-27-75, Patrick Shea, staff member of the SSC requested we hold in abeyance any action on the request in view of the killing of the Agents at Pine Ridge Reservation, South Dakota.

RECOMMENDATION:

For information.

Enclosure

- 1 - Mr. Adams - Enc.
- 1 - Mr. Wannall - Enc.
- 1 - Mr. Cregar - Enc.
- 1 - Mr. Deegan - Enc.
- 1 - Mr. Mintz - Enc.
- 1 - Mr. Hotis - Enc.
- 1 - Mr. Daly - Enc.

[Handwritten signatures and initials]

PVD:eck
(9)

100-44821-21-31

NOT RECORDED
JUL 9 1975
46 JUL 22 1975

84 JUL 24 1975

UNITED STATES GOVERNMENT

Memorandum

- Asst. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Legal Coun. _____
- Telephone Rm. _____
- Director Sec'y _____

W

TO : Mr. Gebhardt

DATE: June 30, 1975

FROM : B. H. C.

SUBJECT: RESMURS

Three days after the shoot-out the FBI was already aware of the incredible inconsistencies in their story. Thus beginning the coverup.

- 1 - Mr. Callahan
- 1 - Mr. Adams
- 1 - Mr. Gebhardt
- 1 - Mr. Cooke
- 1 - Mr. Gordon
- 1 - Mr. Moore
- 1 - Mr. Wannall

RR
GOK

SAC Dick Held was instructed in a phone call at 10:15 a.m., EDT, to have SA Gary Adams fly to California to meet with the Director in Los Angeles at 8:00 p.m. and to brief the Director concerning the details of the incident at Pine Ridge. SA Adams was to bring with him FD-302s for the Agents who were present at the time of the shooting and these FD-302s are to be facsimiled to the Los Angeles Office and to be received prior to 8:00 p.m. tonight so that they will be present for the briefing session.

One of the chief concerns by the way of inconsistencies that should be resolved today, is the autopsy report saying that SA Williams was instantly killed by the first bullet at close range, wherein the teletype received from Minneapolis 6/29/75 indicated that Agent heard Williams on the radio transmit the message "I'm hit." The Director has stated that it is obvious that this transmission would be impossible if the autopsy report was accurate and he desires this clarified before any statement to the press is made.

The above information is also being furnished to SA [redacted] at the Command Post with the instructions that the Agents get together and resolve any inconsistencies so that SA Adams will have complete information when he arrives at Los Angeles for the briefing.

ACTION:

For information.

BHC:wss
(7)

REC-20

89-3229-65

13 JUL 2 1975

50 JUL 24 1975

146.

925-66201
UNITED STATES DEPT. OF JUSTICE

Exhibit SS

MP 70-10239

FBI Agent Gary Adams reports a *pick-up* truck leaving the scene of the crime, but no government agency bothers to try and apprehend this vehicle.

1:09 p.m.

ADAMS advised nothing new. Firing at us again.

1:12 p.m.

ADAMS asked if COWARD had portable equipment.

1:14 p.m.

ADAMS advised that FBI and BIA units are being placed in an effort to surround the subjects' dwelling.

1:20 p.m.

ADAMS advised O'CLOCK at this time that PRICE is with DELMER K. EASTMAN.

1:26 p.m.

ADAMS to COWARD; south of Oglala, pickup came in here and he just left, can't get any BIA people on it. We have, can you get on Channel 1 and tell them to turn that tower on.

1:30 p.m.

Evacuated house; Agents are repositioning.

1:31 p.m.

ADAMS advised it's quiet right now; oh, here we go, they are firing again at us.

1:34 p.m.

(ADAMS) We don't know where the woman is and we have not done any return fire. EASTMAN is on one side and his persons will go on one side so that they won't get out on us.

ADAMS to COWARD advising COWARD where to position himself.

1:39 p.m.

ADAMS advised that there is no firing at all right now and that he will be out of his car for about 10 minutes.

1:40 p.m.

(ADAMS) We are taking some fire.

0135

In this dictated transcript three days after the shoot-out, Agent Adams states that he heard Agent Williams' report of a *pick-up*. Adams also states his unfamiliarity of the area.

Date of transcription June 30, 1975

At approximately 11:50 a.m., Special Agent J. GARY ADAMS was in his Bureau car in Pine Ridge, South Dakota, when he heard Special Agent RONALD A. WILLIAMS talking on the Bureau radio. Special Agent WILLIAMS said, "There are several guys around the house and...it looks like they're going to take off. **They're getting into that pickup.**" WILLIAMS then stated, "...hope you have a lot of gas...."

A moment later WILLIAMS said, "It looks like they are going to shoot at us.... We've been hit," and sounds of shots were heard over the Bureau radio. Special Agent ADAMS asked WILLIAMS his location and WILLIAMS advised they were at the houses behind JUMPING BULL hall, which was known to be north of Pine Ridge, South Dakota, approximately 12 miles. Special Agent ADAMS immediately attempted to contact the Pine Ridge Police Department via radio but radio contact could not be established. Special Agent ADAMS then attempted to contact Pine Ridge Police Department via Government Channel 1 and again no answer. Special Agent ADAMS then heard State Radio Law in Rapid City contact Pine Ridge Police Department.

Special Agent ADAMS proceeded to the scene at a high rate of speed. En route Special Agent ADAMS asked WILLIAMS his exact location as Special Agent ADAMS was not familiar with the JUMPING BULL hall location. WILLIAMS then advised via radio to get on a high hill and give them some fire cover or they "would be killed." WILLIAMS advised to go to the house with the out building some distance from the main building. During these transmissions, gunshots were heard over the Bureau radio. This was 3-4 minutes after WILLIAMS' first transmission.

Upon arriving at the vicinity of the LITTLE ranch, Special Agent ADAMS stopped his Bureau car and retrieved his .308 rifle and armored vest from the trunk. Special Agent ADAMS put on his armored vest and loaded his rifle. Before stopping the car Special Agent ADAMS had his personally owned .357 magnum on his belt and a .12 gauge shotgun under the front seat. Special Agent ADAMS then continued north toward Oglala and in the vicinity of the STARR place met with a Bureau of Indian Affairs (BIA) police car being driven by FRANK TWO BULLS.

Interviewed on 6/26/75 - 2 at Pine Ridge, South Dakota File # MP 70-10239 -
Sub A-198
 by SA J. GARY ADAMS/pm Date dictated 6/30/75

DEFENDANT'S Exhibit "F"

This document contains neither recommendations nor conclusions of the FBI. It is loaned to your agency and its contents are not to be distributed outside your agency.

Exhibit AA

This Memo mentions just how many people the FBI believed to actually have been involved in the shooting. Even with this knowledge the FBI eventually only indicted three people. This also mentions the "FBI fugitive Leonard Peltier" being reported in the area. A suspect named David Skye is first mentioned here.

TO
FROM

SUBJECT: RESMURS

DATE: 7/5/75

- 1 - Mr. Callahan
- 1 - Mr. Adams
- 1 - Mr. Jenkins
- 1 - Each Assistant Director
- 1 - Mr. Cooke
- 1 - Mr. Gordon

Handwritten notes and routing slip:

- Exec AD
- Asst. Dir.:
- Adm. Serv.
- Comp. Syst.
- Ident.
- Insp.
- Intell.
- Lab.
- Plan. & Insp.
- Rec. Mgmt.
- Training
- Legal Coun.
- Telephone Rm.
- Director's Sec'y

SAC Richard Held at Command Post, Pine Ridge, South Dakota, furnished the following to Section Chief Benjamin H. Cooke by secure telephone communication on the morning of 7/5/75.

To date information has been developed through our investigative efforts in Pine Ridge that indicates possibly as many as 47 people were involved in actual shooting, either as participants or material witnesses. Investigation is progressing to identify the individuals. The one individual that appears to have been identified by more witnesses than any other is FBI fugitive Leonard Peltier, who according to the best information that we can now obtain, may have been killed during the shootout. An informant furnished us with information last night that he knows the location of a grave where he believes Peltier to be buried, and he will take Agents to that location today.

Another individual believed to be involved is Donald M. Loud Hawk. Loud Hawk's fingerprint was found on a license application in an automobile located in the tent city and this license application was dated one day before the actual shooting.

Another individual who has been identified by BIA witnesses is James Theodore Eagle is still at large.

David Skye, who is currently in jail at Rapid City on a material witness warrant, is also believed either to have been present and participated in the shooting or to have first-hand knowledge of those who were participating. Another eye-witness has been located who personally saw Joseph Stuntz during the shooting and saw him when he was shot. You will recall that Stuntz was the Indian who was killed during the shootout and whose body was recovered at the scene.

REC 68 89-3229

JUL 10 1975

This Memo shows the FBI's strong desire to involve Peltier in the case, as well as Frank Black Horse who was never indicted.

ATED TOWARDS:

, ADDING NEW CASES,

THE INVESTI

1) COMPLETE

OR ELIMINATING T

2) ESTABLISHING THE WHEREABOUTS OF THE SUSPECTS DURING THE PERTINENT PERIOD;

3) IDENTIFY AND LOCATE ALL OF THE RESIDENTS OF "TENT CITY" WHO WERE THERE DURING ANY PERIOD OF ITS EXISTENCE AND/OR WHOSE FINGER-PRINTS HAVE BEEN FOUND ON MATERIAL TAKEN FROM "TENT CITY;"

4) EXAMINING THE EVIDENCE AND CONNECTING IT TO THE SUSPECTS;

5) DEVELOP INFORMATION TO LOCK PELTIER AND BLACK HORSE INTO

THIS CASE

6) DEVELOP ADDITIONAL CONFIDENTIAL INFORMANTS AND SOURCES;

7) COORDINATE WITH AUXILIARY OFFICES IN ORDER TO FULLY DEVELOP BACKGROUND AND ACTIVITIES OF SUSPECTS WHO EITHER LIVE IN THEIR AREA OR HAVE ASSOCIATES THERE;

8) ATTEMPTING TO DEVELOP WITNESSES AND SOURCES WHO CAN AND WILL TESTIFY AS TO THE ACTUAL EVENTS OF THE AFTERNOON OF JUNE 26, 1975.

AS THE BUREAU IS AWARE, THE GRAND JURY IS BEING USED IN AN EFFORT TO FACILITATE THIS LATTER ASPECT WHERE WITNESSES ARE RELUCTANT TO FURNISH INFORMATION.

END

FRO ANY QUESTIONS OR CORRECTIONS CONTACT RAPID CITY.

Memorandum

TO : Mr. Gallagher

FROM : B. H. Cooke

SUBJECT: RESMURS - CONTEMPLATED
DISMISSAL OF PROSECUTION OF
JAMES THEODORE EAGLE;
CONTINUING PROSECUTION OF
LEONARD PELTIER

Even though the evidence against Jimmy Eagle was stronger than that against Peltier the government dropped its case against Eagle "so that the full prosecutive weight of the federal government could be directed against Leonard Peltier". (emphasis added)

1 - Mr. Leavitt

- Asst. Dir. _____
- Dir. AD Adm. _____
- Dir. AD Inv. _____
- Asst. Dir. _____
- Adm. Serv. _____
- Ext. Affairs _____
- Fin. & Pers. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Eval. _____
- Rec. Mgmt. _____
- Spec. Inv. _____
- Training _____
- Telephone Rm. _____
- Director Sec'y _____

PURPOSE: To record the decision to dismiss prosecution of James Theodore Eagle and to vigorously prosecute Leonard Peltier in the murders of SAs Jack R. Coler and Ronald A. Williams.

RECOMMENDATION: For information and record purposes.

APPROVED: _____

Assoc. Dir. _____	Ext. Affairs _____	Laboratory _____
Dep. AD Adm. _____	Fin. & Pers. _____	Legal Coun. _____
Dep. AD Inv. _____	Gen. Inv. _____	Plan. & Eval. _____
Asst. Dir. _____	Ident. _____	Rec. Mgmt. _____
Adm. Serv. _____	Inspection _____	Spec. Inv. _____
	Intell. _____	Training _____

DETAILS: On 8/9/76, Director Clarence M. Kelley conferred with U. S. Attorney (USA) Evan Hultman, Northern District of Iowa, prosecutor in the Resmurs trials, who was accompanied by William B. Gray, Director, Executive Office for USAs. Present at this conference were Associate Director Richard G. Held, Deputy Associate Director James B. Adams, Assistant Director Richard J. Gallagher, and Unit Chief John C. Gordon and SA Herbert H. Hawkins, Jr. of the General Crimes Unit.

USA Hultman stated that the Resmurs case on James Theodore Eagle was weak and he felt there was not sufficient evidence to get it to the jury. The prosecutive aspects of this case were fully discussed and all present concurred with the Director and USA Hultman that this case be dismissed, so that the full prosecutive weight of the Federal Government could be directed against Leonard Peltier.

On 8/9/76, Departmental Attorney Roger Cabbage was advised of this decision, inasmuch as Mr. Cabbage wanted to know the FBI's position prior to meeting with USA Hultman and Departmental Attorney Alfred Hantman, Chief of the General Crimes Section, on 8/10/76. Mr. Cabbage subsequently advised on 8/10/76 a decision has been made in the Department to allow the USA to dismiss the charges against James Theodore Eagle.

JCG:mer (10)

CONTINUED - OVER



EX 104 REC-78 89-3229-2818

22 SEP 10 1976

Handwritten initials and marks, including a large 'SIX' and other scribbles.

Memorandum to Mr. Gallagher
RE: RESMURS - PROSECUTION OF
JAMES THEODORE EAGLE

On 9/4/75, Marvin A. Stoldt advised that on 6/26/75, he observed Eagle fleeing the crime scene carrying a rifle. On 9/11/75, Michael Erwin Anderson advised that on 6/26/75, Eagle was at the Harry Jumping Bull residence when the FBI Agents were shot. On 9/22/75, Norman Patrick Brown identified a photograph of Eagle and stated Leon Eagle, the brother of Jimmy Eagle, helped individuals escape 6/26/75, from the scene of the killing of the FBI Agents. On 10/3/75, Melvin White Wing advised he heard Eagle say "We took turns shooting the Agents." On 11/25/75, at Rapid City, South Dakota, a Federal Grand Jury indicted Eagle for the murders - first degree in the killings of SAs Coler and Williams.

Prior to being indicted, on 10/1/75, Eagle was found guilty to two counts of CIR - Assault with a Deadly Weapon in U. S. District Court, Rapid City, and sentenced to six years in the custody of the Attorney General.

During Peltier's 1985 appeal, assistant prosecuting attorney Lynn Crooks claims that Peltier was the leader of the AIM camp during the June 26th shoot-out.

83

ve a tag of basically garden variety
Leonard Peltier was the oldest person

3 there. He was the leader of the group. That was established
4 even by his own people who he called. There were several
5 people that were called to testify that he had been invited to
6 the reservation, that he brought these young lads with him,
7 these 14 and 15-year-old lads with him, and that he in fact
8 was the leader of that group. That really was uncontestable
9 and uncontested. In fact, there was no serious issue about
10 it, and I don't think there's a serious issue about that to
11 this day.

12 Leonard Peltier, unlike Robideau and Butler, was
13 there when the shooting started. The testimony at our trial
14 was very clear, Robideau and Butler were back in camp. Mr.
15 Peltier, on the other hand, was there when the shooting
16 started. He was in the vehicle which was followed into the
17 area by the two agents. This is the red-and-white Chevrolet
18 Suburban, which was later identified by Angie Long Visitor and
19 others as being his. He was there when it started. He was
20 not back in camp. Peltier, unlike Robideau and Butler at the
21 Cedar Rapids trial, had means at hand to know who these agents
22 were. He was with Norman Charles. Norman Charles had been in
23 one of these agent's cars -- Agent Williams' car the night
24 before. Norman Charles was there when Leonard came in in the
25 van or Suburban. That was clearly in the court record.

MP 70-10239, PAGE EIGHT

In this Memo Michael "Baby AIM" Anderson who was present during the shoot-out informs the FBI that *Bob Robideau* was "in charge" of tent city.

JIMMY EAGLE, LEON EAGLE, LEONARD PELTIER, WILMA (LNU). ANDERSON ADVISED LISTED INDIVIDUAL WAS GIRL FRIEND OF JIMMY EAGLE AND WAS COOKING HIS (ANDERSON) MEAL AT TIME OF SHOOTING.

ANDERSON ADVISED THAT ON JUNE 25, 1975, HE WAS PICKED UP BY FBI PERSONNEL AND TAKEN TO PINE RIDGE POLICE DEPARTMENT WHERE HE WAS INTERVIEWED AND RELEASED. PERSONS ACCOMPANYING ANDERSON TO PINE RIDGE WERE NAMED JOHN BOYSE AND DAVID MANY HORSES. ANDERSON INDICATED THAT ROBERT ROBIDEAU WAS IN CHARGE OF THE "TENT CITY" COMMUNITY AND WAS ALSO THE LEADER OF THE INDIVIDUALS WHO WERE TRANSPORTING WEAPONS, ETC., WHEN THEIR CAR EXPLODED. ANDERSON ADVISED THAT HE AND ROBIDEAU HAD LOADED THE WEAPONS AND EXPLOSIVE DEVICES FROM A HEAVILY WOODED AREA NEAR PARMELEE, SOUTH DAKOTA, ON ~~SEPT. 9, 1975~~ ^{SEPT. 9, 1975}, AND WERE TRANSPORTING THEM TO NORTHERN OKLAHOMA TO AVOID DISCOVERY BY FEDERAL AGENTS. ANDERSON FELT THAT REASON FOR MOVEMENT OF WEAPONS, ETC., WAS INTENSE "HEAT" FBI AGENTS HAD PUT ON ROSEBUD INDIAN RESERVATION BY THEIR RECENT RAIDS ON LEONARD CROW DOG'S AND AL RUNNING'S.

NR093 RC CODE

OCT 02 1975

6:42 PM NITEL 10/2/75 DLS

TELETYPE

On October 2, 1975 this teletype states that the shell casing supposedly found in the trunk of one of the murdered agent's cars *does not* match the gun that they tried to link to Peltier.

TO DIRECTOR (89-3229)

FROM RAPID CITY (78-10239) (P)

ATTENTION: FBI LABORATORY - FIREARMS SECTION; IDENTIFICATION DIVISION - LFPS

Legal Coun	---
Telephone Rm	---
Director Sec'y	---

RESMURS

RE MINNEAPOLIS LETTER TO BUREAU SEPTEMBER 15, 1975; RAPID CITY TELETYPE TO BUREAU (ATTENTION LABORATORY) SEPTEMBER 27, 1975; AND BUREAU TELETYPE TO RAPID CITY OCTOBER 2, 1975.

IF NOT ALREADY DONE, LABORATORY - FIREARMS SECTION REQUESTED TO

COMPARE SHOTGUN SHELLS AND CASINGS FOUND AT SCENE OF RESMURS WITH BUREAU SHOTGUN, SERIAL NUMBER SB43910V, RECOVERED FROM SUSPECT DALE SHEPARD AND HANDCARRIED TO LABORATORY ON JULY 23, 1975, TO DETERMINE

IF ANY WERE FIRED FROM BUREAU SHOTGUN. X-115:EC-38

REFERENCED BUREAU TELETYPE OCTOBER 2, 1975, INDICATED .223

CASINGS NOT IDENTIFIABLE WITH AR-15 RIFLE LOCATED IN VEHICLE WHICH EXPLODED ON KANSAS TURNPIKE SEPTEMBER 10, 1975. LABORATORY

REQUESTED TO COMPARE N.I. .223 CASINGS WITH AR-15 RIFLE (SERIAL NUMBER OBLITERATED) LOCATED AT RUNNING'S PROPERTY SEPTEMBER 11,

1975, AND SUBMITTED TO LABORATORY SEPTEMBER 15, 1975, UNDER MINNEAPOLIS FILE 78-10488.

Ident
Q112
K31

89-3229-1702X

5 NOV 6
Q107
Q108
Q110
Q112
Q113
Q114
Q115
Q116
Q117
Q118
Q119
Q120

SEARCHED
SERIALIZED
INDEXED
FILED

29 11

TELETYPE TO RAPID CITY
89-3229
PAGE 2

MAJORITY OF THESE WEAPONS WERE PRODUCED FOR AND RECEIVED BY
THE BUREAU.

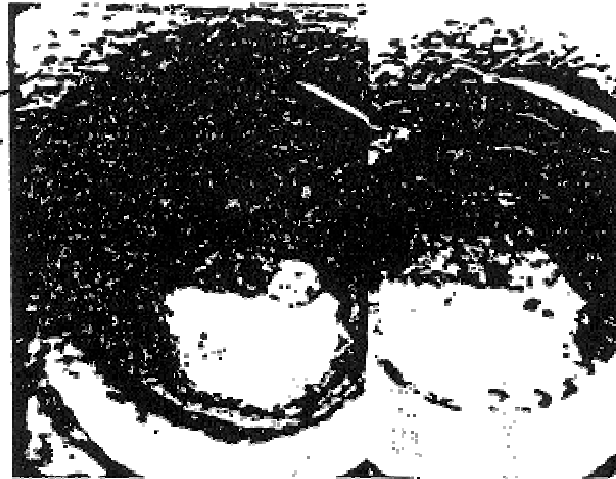
RECOVERED .223 CALIBER COLT RIFLE RECEIVED FROM SA [REDACTED]
BATF, CONTAINS DIFFERENT FIRING PIN THAN THAT IN RIFLE USED b7c
AT RESMURS SCENE.

EXAMINATIONS CONTINUING.

REPORT FOLLOWS.

Q2628 .223 Remington caliber Remington Peters
cartridge case from trunk of SA Jack P.
Coker's automobile

Q2628 sent w/KIA (M1771) by
extractor wks



Q2627 (MORRIS)

356

KBT (MUNICH)

Q: WHO WERE THE BR

GOON leader Duane Brewer admits to having illegal weapons present during the June 26, 1975 shoot-out. These M-16 weapons have an extremely similar caliber to that of AR-15s which was the weapon claimed to be used to kill the agents.

X

A: Whoever was in say. Certain on weapons. And if out. One of our want to ever sho

Because we pretty much knew what they had. They had some pretty sophisticated weapons. So did we.. There was a lot of shotguns and 30/30's and personal weapons there. But the big stuff we usually kept back.

group, let's d get the ould shift them at we didn't t want them to

Like the time we went to Wounded Knee. We was out there and we thought there was going to be a war. That was after the first, the first annual. The year after they had given up Wounded Knee and they was going to have a celebration out there. But we went out there in force. Yeah, it was our Highway Safety Program, a lot of tribal workers and just goons. A lot of people. We had that whole hillside full. Well, I know that there was agents in the trees and all over with telescopic lenses 'cause I have seen a lot of their photographs. They were looking for weapons. And we knew they were. But that was one of our policies. We wouldnever show a force of weapons.

Q: WHAT DID YOU HAVE IN RESERVE THAT DAY?

A: Well, we probably had some M16's, .30 caliber carbines, a lot of the old military stuff.

FBI issued weapon

Q: IF THE GOON SQUAD HAD M-16's. THAT IS AN ILLEGAL WEAPON?

A: They were around. A few of them were gifts. A few of them were paid for. And like I said, you know, when we was in Rapid City at the Grand Jury hearing, we had a lot of visitors, you know, that would say, "I want to meet with four or three or four of your people for a short meeting." And you'd go to their room with this big suitcase and show you a bunch of weapons, grenades, plastic explosives, deadcord blasting caps, whatever. And give you some. Here, take this. A couple guys I know of walked around with blasting, you know, a dozen blasting caps in their shirt pockets.

Q: HOW ABOUT GRENADES?

A: A few of them. Oh, we had one guy shoot a weapon in the Holiday Inn one time when he was having a fashion show. You know, screwing around up there. You know, when we would go in at night, everybody would take a weapon in.

do you know?

A It d

Q The purchase and designation?

MR. LOW

It is quite

THE COU

(Counse

Q (By Mr. Sikma) Would ammunition purchased from Lake City have a designation?

A Yes, sir.

Q And that designation would be what?

A LC.

Q Are you familiar with the -- how rounds are ejected from {3252} an AR-15 or a M-16?

A Yes, sir.

Q Now, would you designate or tell the jury what the difference is between an AR-15 and a M-16, if you know?

A Both the AR-15 and the M-16 is manufactured by Colts Firearms Company in Connecticut. The essential difference is that the M-16 is a military rifle, and it has a full, fully automatic capability of fire through a selector switch on the receiver. There is also a rod on the side of the weapon which allows the bolt to be driven home should the gun become dirty, and that is the essential difference.

In appearance they are almost exactly like with the exception of that rod on the side of the receiver.

Q Where would that be on this Government Exhibit 34-AA?

A It would be right on the right side of the weapon coming out back to here (indicating). The selector switch is identical to this except that it has one more position on it, and that's fully automatic.

Q To your knowledge, or do you have an opinion as to whether or not the automatic rifle designator switch has any effect on the -- on whether or not or how the expended cartridge casings are expelled from the firearm?

A The fully automatic switch adjusts the sear only. It does not interfere with the spring mechanism or the recoil operation of the weapon.

{3253}

Since the parts are interchangeable in the bolt, it would not in my opinion affect the way that the cartridge cases were ejected from the weapon when the weapon is fired in the semi-automatic method of firing.

Q Did you conduct any test to determine general ejection patterns of various random AR-15's?

A Yes, I did.

Q Or M-16's?

A Yes, sir, I did.

Q Would you tell the jury what you did in this regards, what kind of tests you ran?

A I selected five weapons of this type, two were AR-15's, the civilian model, and three M-16's which are the military weapon.

I took them to our training facilities at Quantico, Virginia and fired 20 rounds from each weapon in -- 10 from the shoulder area and 10 from the hip. I used both military and commercial ammunition, and I charted where the cartridge cases were thrown from the gun.

During Peltier's trial Agent Evan Hodge, who was assigned to the Firearms and Tool Marks Identification Unit of the FBI, testified to the incredible similarities of the AR-15 and M-16 rifles.

or an AR-15, would would have a LC

stion, your Honor.

As the only person to ever physically examine Coler and Williams' bodies, Dr. Bloemendaal in this sworn affidavit implies that Agent Williams was *first* shot in the head, thus conflicting the FBI's account of the "up close" double murders.

The body of Jack R. Coler further identified to Kenneth I. Parkerson of the Federal Bureau of Investigation appeared that this body had sustained three gunshot wounds originating from the right side and involving the right arm and forearm with the missile creating soft tissue in that area creasing the

subcutaneous tissue of the right side of the back. I further observed what appeared to be two wounds to the head of Jack R. Coler: a right to left wound involving the top of the head; the second wound entered the body with a slight angle from right to left commencing beneath the chin and fragmenting when hitting the hyoid bone and mandible. This latter gunshot wound would have been instantly fatal.

5. I examined the body of Ronald A. Williams, said body evidencing what appeared to be three gunshot wounds. A high velocity missile had penetrated the face and skull; a second gunshot wound was present which appeared to have gone through the triceps muscle on the left arm, with what appeared to have possibly been the core of the missile striking the lateral chest but not penetrating the body. This wound appeared to be the product of a low velocity missile. The third gunshot wound was observed on the great toe on the left foot. My gross provisional diagnosis was death due to the gunshot wounds involving the face, head, left arm, left chest and flank, right hand and left foot.

6. In my opinion the deaths of Special Agents Ronald A. Williams and Jack R. Coler were direct consequence of the bullet wounds exhibited by said bodies.

Subscribed and sworn to before me
this 27 day of February, 1976.

David P. Zarnes
Deputy Clerk
District of South Dakota
United States District Court

Robert D. Bloemendaal, M.D.
Robert D. Bloemendaal

Gebhardt to O'Connell Memorandum
Re: RESATURS

In this Memo released the day after the shoot-out the FBI discusses their belief that the agents bodies were "dragged a considerable distance". This fact contradicts their later claim of the agents being shot while they were positioned along side of their cars. Also mentioned is the belief that the two agents were traveling in the same car. This contradicts their scenario as well.

At 12:40 a.m. we were advised by External Affairs that the parents of SA Williams were advised of their son's death and the previously approved press release was released.

At 12:40 a.m., 6/27/75, SAC Trimbach called and a three-way line was set up with the Director. Trimbach said that it appeared the subjects apparently were able to move out of the area under cover of darkness since they could find no Indians in the houses from whence the firing occurred. He said there was not a great deal Agents could do tonight because of the dark situation but they intended to secure the area and start an intensive investigation at first light.

There were four houses involved in this compound and the surrounding area is completely open. It is believed the people involved are Indians or AIM people. He noted that while there were four warrants outstanding for four subjects, one subject had been taken in custody prior to the shooting. There are still three outstanding warrants.

The bodies of the two Agents were en route to Rapid City at that time. All of the weapons including the shoulder weapons kept in the Bureau cars assigned to the Agents were missing. All of their personal identification is missing except for the credentials of SA Williams which were found on the hood of one of the automobiles. The Agents' bodies were found approximately 200 yards from the house and it appeared the bodies had been dragged for a considerable distance, were shot repeatedly and at least one shot was delivered to the head. Twenty horses are being brought in for the morning search.

One Indian is dead but they have no identity of him at the present time; however, he did have the jacket of one of the dead Agents on his person.

In reconstructing what occurred, Trimbach said the two Agents in two cars were checking for one of the fugitives. They apparently got together in one car. One of the Agents called in and announced the general area they were going to. Shortly thereafter, it was announced on the radio there was shooting and the final transmission came from one of the Agents who announced they had been hit.

MP 70-10239, PAGE ELEVEN

In the following two Memos a suspect and FBI fugitive named Leroy Casados was found to be in possession of Agent Williams' revolver, an AR-15, .223 shell casings, and an International Scout which was another suspected vehicle on June 26, 1975. Leroy Casados was never indicted.

RECOVERED FROM A 1975 INTERNATIONAL SCOUT IDENTIFIED AS THE PROPERTY OF LEROY CASADOS AND LOCATED ON THE AL RUNNING PROPERTY WAS ONE SMITH AND WESSON MODEL 19 .357 MAGNUM ^{2 1/4} ~~2 1/2~~-INCH BARREL WITH SN OBLITERATED ON THE BUTT AND THE YOKE. ACCORDING TO THE FBI LABORATORY, THIS .357 MAGNUM SMITH AND WESSON REVOLVER WAS FOUND TO BEAR STAMPED NUMBER 310439 [REDACTED] THIS NUMBER ^{b7E} BEING THE DIGIT PORTION OF THE SN OF SA RONALD WILLIAMS' PERSONALLY OWNED REVOLVER. THE BOSTON DIVISION ADVISED ACCORDING TO REPRESENTATIVES OF SMITH AND WESSON THIS WEAPON WOULD BE IDENTICAL TO THAT BEARING SN 3K10439 WHICH IS THE WEAPON STOLEN FROM SA RONALD WILLIAMS AT THE TIME OF HIS MURDER.

ON SEPTEMBER 11, 1975, AL RUNNING GAVE A CONSENT TO SEARCH VICINITY OF HIS RESIDENCE. LOCATED AT THAT TIME WAS A COLT AR15 RIFLE WITH OBLITERATED SN; ONE 30-ROUND CLIP FOR THE ABOVE RIFLE; ONE OLIVE-DRAB COLORED FIELD JACKET WHICH BORE A PATCH OF THE MEXICAN FLAG AND A PATCH SHOWING "CHICANO POWER." IN THIS JACKET WERE ONE 20-ROUND .223 CALIBER MAGAZINE WITH LIVE ROUNDS; TWO 30-ROUND MAGAZINES; .223 CALIBER WITH LIVE ROUNDS; AND THREE .45

PAGE SEVEN, PD 89-94

HAS TENTATIVELY IDENTIFIED BUREAU FUGITIVE ~~LEROY CASADOS~~ AS
AMERICAN INDIAN MOVEMENT (AIM) EXPLOSIVE EXPERT. CASADOS
PERSONAL ASSOCIATE OF LEONARD PELTIER [REDACTED]

[REDACTED] IN ADDITION, IT SHOULD BE NOTED THAT
CASADOS FLED AL RUNNING RESIDENCE, ROSEBUD, SOUTH DAKOTA,
INDIAN RESERVATION DURING EXECUTION OF SEARCH WARRANT THAT
RESIDENCE, SEPTEMBER 15, 1975. DURING THIS SEARCH, LARGE
QUANTITIES OF DYNAMITE ALSO DISCOVERED. NUMEROUS SIMILARITIES
IN WEAPONS, EXPLOSIVES, ETC., HAVE BEEN NOTED BETWEEN CURRENT
INCIDENT AND EXPLOSION SEPTEMBER 18, 1975, ON WICHITA TURNPIKE
WHEREIN SEVEN RESMURS SUSPECTS WERE IDENTIFIED AND CHARGED.
WITH PERTINENT EXPLOSIVE VIOLATIONS.

ARMED AND EXTREMELY DANGEROUS.

END.

FOR-ANY-QUESTIONS/CORRECTIONS-PLS-CONTACT-THE-PORTLANDS OFFICE.

END

PLS-HOLD

PLEASE PRINT-ACK-FOR-RELAY

cc: *Wintello*

4
For *LeRoy* ^{LEROY} *Casados*, Lab, Spec Div.

Rapid City, SD
Following info

In this barely legible document, there can still be read a statement which mentions an eyewitness who saw David Sky and another unidentified individual "open fire" on Agent Williams and then drag him from his car.

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the company of
and furnished to
b7C-1

He s
on the Pine Ri

having been born

Tuesday, June 25, 1975, he attended a... on the Pine Ridge Reservation to attend a...
Thursday, June 26, 1975, he attended a... on the reservation which was held near a creek and during this he was drinking heavily. He said after the powwow was over, he walked up a hill to a green house where he had heard there was some trouble. Then he...
... to get the

... he walked back to the creek where he laid down in some weeds. He said shortly thereafter he heard shots fired inside the house and the body of an Indian, which he recognized as... was carried out by several other Indians. He said the body was carried to a creek and buried in a shallow grave near the water's edge.

... he returned to the house and looked in... the body of... lying in a pool of blood. ... again told him to... so he returned to the weeds and... again. He related he was lying there when Special Agent RON WILLIAMS, whom he knew personally, came up. He said he saw DAVID SKY and an Indian named "SNAG" described as male, early 20s, five feet eight inches, 100 pounds, black hair, ... pulled WILLIAMS from his car. He said during this time, the other FBI Agent pulled up at the other side of the house and he heard shots but he did not see who fired at him.

b7C

... after the... he... away and returned to Rapid City. He stated there were at least twelve Indians at the house who were participating in the

b7D

July 4, 1975

Rapid City, South Dakota - 70-10239

SA
SA

b7C-3

514 July 4, 1975

David Sky, a/k/a David Ski, a/k/a David Scott at the scene and along the said escape route within the last several days.

This indicates that dogs had placed the scent of David Sky in the area of the murdered agents as well as the escape route.

who had been firing at Special Agents of the Federal Bureau of Investigation subsequent to the deaths of Agents Williams and Coler. The said escape route was previously known and the dog indicated to Mc Ginn the presence of David Sky, a/k/a David Ski, a/k/a David Scott at the scene and along the said escape route within the last several days.

The undersigned has been advised by several Agents of the Federal Bureau of Investigation including Special Agent J. Gary Adams that within close proximity to the scene of the murders of Agents Coler and Williams are located several houses and at the time of the crimes there were also several tents and vehicles containing camping gear, food items and other personal property which indicated that numerous persons had been living in the immediate vicinity at the time of said crimes.

The undersigned, based on the foregoing, believes that the said David Sky, a/k/a David Ski, a/k/a David Scott is a material witness to the identities of the persons who have been occupying the vicinity of where the crime occurred and has knowledge which may lead to the apprehension and prosecution of those unknown persons who were responsible for the deaths of Agents Williams and Coler.

That based upon the inconsistent statements given Agent Smashey by David Sky, a/k/a David Ski, a/k/a David Scott concerning his presence on the Pine Ridge Indian Reservation and his apparent false representations as to his previous whereabouts it is believed that it is impractical to secure his attendance at the meeting of the Grand Jury that will be investigating into the circumstances surrounding the deaths of Agents Williams and Coler by subpoenaing him inasmuch as the true identity of the

David Sky's polygraph examiner states Skys' reluctance to cooperate. The questions which were posed to him have never been released.

F B I

Date: 7/1/75

REC-21

(in plaintext or code)

REGISTERED

(Priority)

TO: DIRECTOR, FBI
FROM: SAC, MINNEAPOLIS (70-10239)
SUBJECT: RESMURS
OO: MINNEAPOLIS

Re Bureau teletype to Minneapolis dated 6/29/75 authorizing polygraph examination of DAVID SKY.

On 6/29/75, DAVID SKI, also known as DAVID SKY, was afforded a polygraph examination by SA [redacted] at Pine Ridge, South Dakota. Prior to the examination, who had previously signed his name as DAVID SKY, signed both, a warning and waiver form and a polygraph consent form as DAVID SKI.

The purpose of the examination was to determine if he was involved in captioned matter. He had denied any knowledge of the murders of Agents WILLIAMS and COLER.

The examinee's attitude appeared to be sullenly hostile, and antagonistic. It was the impression of the examiner that SKI was only reluctantly cooperative.

The charts obtained contain responses to the questions set forth below, which were interpreted by the examiner as being indicative of deception.

- 3 - Bureau (1 - 80-MINNEAPOLIS)(ATTN: POLYGRAPH UNIT)
- 1 - Chicago (94-715)(INFO)
- 4 - Minneapolis (1 - POLYGRAPH FILE)

HFB/Jar
(8)

1-5070

EX-117

SEARCHED	INDEXED
SERIALIZED	FILED
JUL 7 1975	
FBI - MINNEAPOLIS	

REC-26

89-3229-230

REC-21
JUL 8 11 03 AM '75

Handwritten signature

PAGE 4

DP 70-10239

The FBI expresses concern over David Sky failing a polygraph exam, and was then considered a "possible participant". With all the evidence that was compiled against David Sky, the FBI decided to drop the case against him and pursue the "manager" of AIM. Namely, Leonard Peltier.

OF INDIVIDUALS AGENTS FACED IN BATTLE. THERE HAS BEEN NO SPECULATION BY PRESS MEDIA CONCERNING PELTIER'S POSSIBLE DEATH.

MATERIAL WITNESS DAVID SKY HAS BEEN INTERVIEWED AND DENIES PARTICIPATION AND/OR KNOWLEDGE OF THE CRIME ALTHOUGH POLYGRAPH EXAMINER INDICATES HE WAS PRESENT AT THE SCENE OF THE CRIME AND WAS A POSSIBLE PARTICIPANT. SKY WAS ARRESTED AS A FEDERAL MATERIAL WITNESS JUNE 30, 1975, AND PRESENTLY BEING HELD UNDER \$25,000 BOND. ALTHOUGH SKY RELUCTANT TO TALK, HE IS BEING CONTACTED WITH HIS PERMISSION BY AN INTERVIEWING AGENT IN EFFORT TO TURN HIM. MATERIAL WITNESS EDGAR BEAR RUNNER HAS BEEN INTERVIEWED AND STATES HE WAS IN THE HOUSE AT THE CRIME SCENE ATTEMPTING TO NEGOTIATE. AT THIS POINT, HE IS HOSTILE, INDICATES HE DOES NOT KNOW ANYONE, AND DOES NOT REMEMBER WHAT WAS SAID. FROM AN INVESTIGATIVE STANDPOINT, EDGAR BEAR RUNNER WILL BE CONTACTED ADDITIONALLY IN ORDER TO ELICIT FURTHER INFORMATION. JOAKN LE DEAUX, IDENTIFIED WITH OFFENSE-DEFENSE COMMITTEE, SUBPOENA ISSUED, UNSUCCESSFULLY NEGOTIATED WITH SUSPECTS DURING SHOOTOUT IS BELIEVED BACK ON PINE RIDGE RESERVATION, AND MATERIAL WITNESS WARRANT BEING ISSUED. EFFORTS TO LOCATE LE DEAUX ARE BEING EXPEDITED. A TOTAL OF 39 SUBPCENAS HAVE BEEN ISSUED FOR A REGULAR GRAND JURY WHICH WILL

Here are some further suspects that were never pursued.

A FOIA disclosed document to Wallace Little, Jr. was found in [302 of (deleted), 7/2/75, App. 37] high-velocity .30-30 casing [Id.] that this casing could not be linked to any .30-30 rifle recovered by the FBI. Post-trial disclosures revealed that Little was regarded by the FBI as "a known militant and supporter of disruptive activity against law enforcement officers...and is always hostile toward any law enforcement officers entering his property" [Report of (deleted), 7/18/75, App. 309-310].

E. BRUCE "BEAU" LITTLE.

Pre-trial discovery revealed that Bruce Little was identified by witness Norman Brown and Mike Anderson in photographic arrays shown them by the FBI.

However, the defense was not informed that Little was placed by an eyewitness as being present at the scene while the fire-fight was in progress. According to a previously suppressed report, Little was:

Identified as an individual leaving the scene immediately after the shooting of the Agents, June 26, 1975.

[REPORT OF (deleted), 7/10/75, App. 478].

F. "SNAG".

The FOIA documents revealed for the first time, that an eyewitness had observed a man called "Snag", along with David Sky, shoot SA Williams and drag him from his vehicle [302 of (deleted) and (deleted), 7/4/75, App. 1485]. The identity of the eyewitness has never been disclosed to the defense and "Snag" was not further identified by name. According to the interview, he was described by

the witness, however, as being "male, early 20s, five feet eight inches, 190 pounds, black hair, reportedly from Oklahoma" [302 of {deleted} and {deleted}], 7/4/75, App. 1485].

G. MELVIN LEE HOUSTON.

The defense was informed prior to trial that .35 caliber casings fired from the same rifle had been seized around the Jumping Bull residences and Tent City by the FBI. The rifle which fired these cartridges was never recovered. Additionally, it had been disclosed that three bullet fragments removed from SA Coler's vehicle were identified as having been fired from a .35 caliber rifle [Laboratory Report No. PC-M0133, 8/5/75, App. 1750, 1752]. However, no evidence was provided as to who might have fired these high-velocity .30 caliber rounds.

The FOIA documents revealed that Melvin Lee Houston was considered by the FBI to be a suspect in the deaths of Coler and Williams, in part as a result of his connection to a .35 caliber rifle:

HOUSTON, DOB August 7, 1950, considered suspect because he is associate of individuals in the area and uses a .35 caliber Remington weapon. Shell casings for this caliber found at scene.

[Report of {deleted}, 7/10/75, App. 481]

The FBI characterized Houston in another FOIA document as a:

Known activist on the Pine Ridge Reservation and was recently a suspect in a murder where the victim was killed with a high-powered rifle.

[DAILY SUMMARY TELETYPE, Rapid City to Director, 8/11/75, App. 1790].

Casings found at the scene of that killing were fired by the same rifle which fired casings at RESMURS according to a previously disclosed Lab Report [No. PC-M0520, 2/10/76, App. 378, 387].

The FOIA documents additionally revealed that "(i)nformation

was also received from one of the other subjects that Houston was present at the shooting" [AIRTEL, SAC, Pine Ridge to Director, 8/15/75 App. 125].

H. RICHARD LITTLE.

During the trial, the defense had no indication that Richard Little was at the scene of the shooting.

FOIA disclosures revealed, however, that he was identified at the scene by an eyewitness [302 of (deleted), 6/30/75, App. 1667] and admitted to the FBI that he "had seen the entire thing from start to finish" [302 of Held and (deleted), 6/28/75, App. 1641].

I. DUSTY NELSON.

From the testimony of Robert Ecoffey and Jencks disclosures, the defense was informed that Nelson was at a Jumping Bull residence on June 25, 1975, and that his fingerprints were found on items seized from Tent City.

The documents released under FOIA revealed interviews with two eyewitnesses who tentatively identified Nelson as being present at the scene and escaping the area during the course of the firefight [302 of (deleted) and (deleted), 6/29/75, App. 732; 302 of (deleted) and (deleted), 7/3/75, App. 1560].

J. GERALD MOUSSEAU.

Prior to and during trial, the defense was provided with six documents in which Gerald Mousseau was mentioned. However, neither these documents nor testimony at trial gave any indication that Mousseau was at the scene during the shooting.

Evidence of Mousseau's presence and possible involvement was

revealed for the first time. [FOIA documents deleted pursuant to the FOIA [See, e.g., 302 of (deleted) and (deleted), 7/10/75, App. 331].

K. JAMES FREDERICK WAR BONNET.

Pre-trial discovery documents informed the defense of the presence of a "junked" white Chevrolet Bel-Air a short distance from where Agents Coler and Williams were killed and the identification of fingerprints of James War Bonnet on items seized at the scene. Another document reported that War Bonnet had been arrested on March 1, 1975, not far from the Pine Ridge Reservation, and charged with possession of two .223 caliber semi-automatic rifles.

The defense was not informed, however, that a South Dakota vehicle registration in the name of James War Bonnet was found by the FBI on the Chevrolet's front seat [302 of (deleted), 6/26/75, App. 1817], and that by early July, 1975, War Bonnet was listed as a suspect due in part to the proximity of his vehicle at the scene:

His 1960 Chevrolet Bel-Air with South Dakota License 67-2557 was observed in the crime scene area on June 26, 1975. {Name and text deleted} ... observed War Bonnet in and around Oglala, S.D. near the time of the shooting. {Name and text deleted} War Bonnet is knowledgeable in the use of explosives and carries a gun with him at all times.

[DAILY SUMMARY TELETYPE, Rapid City to Director, 7/15/75, App. 876]. FOIA documents also revealed an FBI interview with a witness who spoke to War Bonnet after the shooting. The witness (name deleted) said that "Jimmy War Bonnett was 'scared to death' and very excited when talking about the killing of the two FBI agents" [302 of (deleted), 7/18/75, App. 1822].

During the Butler-Robideau trial, defense attorney Bill Kunstler examined subpoenaed FBI Director Clarence Kelley who admits to AIM having "fine goals". Later Kelley admits to having a paid informant infiltrating this "fine" organization.

2615

Government by force and violence; which are construed generally within domestic level.

Q To your knowledge is the American Indian Movement considered to be such a group by the Federal Bureau?

A It is my very definite knowledge that the American Indian Movement is a movement which has fine goals, has many fine people and has as its general consideration of what needs to be done, something that is worthwhile, and it is not tabbed by us as an un-American subversive or otherwise objectionable organization.

Q And yet it is true, is it not, that you have paid informants who are utilized in connection with the American Indian Movement. Is that not correct?

A Yes. I am sure that we have informants and possibly have paid informants but I don't know how many who do, on occasion, concern themselves with some members. Not to get into the whole organization and to, for example, inform on the entire membership.

Q What I
 been testim
 Indian Rese

Also during the Butler-Robideau trial attorney Kunstler then gets FBI Director Kelley to admit to the importance of self defense when a people are threatened.

nts, and there has
 Pine Ridge
 M-16's, automatic

weapons, they have bullet proof vests, they are Army type clothes issued, jackets and so on. That is somewhat different than agents normally have in, say, Cedar Rapids, or New York or Chicago, isn't it?

A Yes. That is different.

Q And that is due, is it not in fact, to the fact the reservation is essentially considered to be more dangerous than Cedar Rapids, Iowa?

A More dangerous perhaps to FBI agents, two of whom have been slain.

Q Hundreds of native Americans have been slain, too, haven't they?

A There have been many Americans slain but two FBI agents were slain, too, and I think they have reason to be really concerned about their own lives.

Q One of the reasons for equipping them this way is that there is a fear that strangers who come into isolated areas on the Pine Ridge Indian Reservation who are not known to the people there, might themselves come under attack out of fear. Isn't that correct?

A I don't care who it is that comes in. If they are threatened they have the right to protect themselves.

Here the FBI admits to the blatantly obvious inconsistencies in the Poor Bear affidavits used in the extradition of Peltier.

(See page 2)

INVENT.
eral

5/10/79

Assistant Director
Federal Bureau of Investigation
Leonard Peltier

- 1 - Mr. Moore
- 1 - Mr. Ingram
- 1 - Mr. Gow
- 1 - J. E. Smith
- 1 - Mr. Mintz

Reference is made to your letter dated April 17, 1979, enclosing a letter from the Canadian Department of Justice, Ottawa, Canada, dated March 29, 1979, concerning the extradition of Leonard Peltier, and FBIHQ memorandum dated 4/25/79.

Myrtle Poor Bear provided three affidavits in Rapid City, South Dakota, in connection with the killings of two FBI Agents in June, 1975, on the Pine Ridge Indian Reservation, South Dakota. The first affidavit was furnished on 2/19/76 stating that she was not present during the killings of the FBI Agents, but that subsequently Leonard Peltier told her that he had killed the FBI Agents. The second affidavit was furnished on 2/23/76 stating that she was present during the killings of the FBI Agents and witnessed Peltier shoot one of the Agents. The third affidavit was furnished on 3/31/76 essentially restating what was furnished in the second affidavit, but in more detail.

All affidavits were voluntarily furnished by Myrtle Poor Bear and taken in good faith. At the time the three affidavits were furnished, it was believed that she was totally reliable and mentally stable. The inconsistency between the first affidavit and the subsequent two affidavits is believed to be the result of Myrtle Poor Bear's initial reluctance to fully cooperate because of her legitimate fear for her own personal safety.

Paul William Halprin, an attorney for the Canadian Department of Justice, represented the United States in the Peltier extradition hearings. In this capacity, he traveled to Rapid City, South Dakota, to confer with special prosecutor Robert Sikma and to review available evidence against Peltier. Halprin was aware of the contents of all three affidavits, and in fact, he was the reason Myrtle Poor Bear furnished the third affidavit as he requested certain issues previously furnished by her be amplified.

MAILED 7
MAY 10 1979

- Asst. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir. _____
- Ident. Sec. _____
- Lab. _____
- Legal Coun. _____
- Off. Cong. & Public Aff. _____
- Rec. Mgmt. _____
- Tech. Serv. _____
- Training _____
- Off. Liaison & Int. Aff. _____
- Director's Sec'y _____

66 JUN 11 1979

REC-107
EX-124

MAY 15 1979

88-66-300-201
405

SEE NOTE PAGE 2

MAIL ROOM

During the 1979 appeal Judge Ross chastises prosecuting attorney Evan Hultman for the government's role in the illegal extradition of Peltier.

51a

anything, et cetera. And so, it is for those two reasons that I believe the court, very realistically, and very fairly, and in the total interest of justice determined for the reasons that the court then gave, that Myrtle Poor Bear's testimony would go totally to a collateral matter, even if it were a collateral matter with some relevancy.

JUDGE ROSS: But can't you see, Mr. Hultman, what happened happened in such a way that it gives some credence to the claim of the—

MR. HULTMAN: I understand, yes, Your Honor.

JUDGE ROSS: —the Indian people that the United States is willing to resort to any tactic in order to bring somebody back to the United States from Canada.

MR. HULTMAN: Judge—

JUDGE ROSS: And if they are willing to do that, they must be willing to fabricate other evidence. And it's no wonder that they are unhappy and disbelieve the things that happened in our courts when things like this happen.

MR. HULTMAN: Judge Ross, I in no way do anything but agree with you totally.

JUDGE ROSS: And you try to explain how they get there is not legally relevant in the case, and they don't understand that.

MR. HULTMAN: I understand, Your Honor.

JUDGE ROSS: We have an obligation to them, not only to treat them fairly, but not give the appearance of manufacturing evidence by interrogating incompetent witnesses.

MR. HULTMAN: Your Honor, I agree wholeheartedly, and I certainly have no quarrel with that, and that is why I say, as I indicated, I ultimately made a decision that I made, and I made that decision personally. I think the trial, itself, Your Honor, and the record in its totality, as well as

During a televised interview with Steve Kroft from the show "West 57th Street" in 1992, assistant prosecuting attorney Lynn Crooks admits to not caring about the false affidavits used in the extradition.

- o -
CROOKS:

it, but I can guarantee you, if I would have shipped up her

KROFT:

Even though you believed her to not be a credible witness.

CROOKS:

Yeah, during a probable cause stage. Wouldn't have bothered me at all. I'd basically said, Judge, here's what we got!

KROFT:

No matter how you cut it, you can't get away from the fact that it was her testimony that got Leonard Peltier extradited from Canada to stand trial.

CROOKS:

I guess I don't ultimately know and ultimately, I don't really care. Doesn't bother my conscience. If everything they say is right on that, doesn't bother my conscience one bit. The man's a murderer. He got convicted on fair evidence. Doesn't bother my conscience one whit! Now, I don't agree that we did anything wrong with that, but I can tell you, it don't bother my conscience if we did.

COMMUNICATIONS SECTION

APR 10 1976
TELETYPE

Special Prosecutors (SP)
conspire to withhold vital
documents from the defense,
regardless of the law.

NR 032 RC CODE

710PM URGENT APRIL 10, 1976 V.L.H.

TO DIRECTOR (89-3229)

FROM ASAC, RAPID CITY (72-10239)

ATTN: LEGAL DIVISION, FBI LABORATORY, IDENTIFICATION DIVISION,
GENERAL INVESTIGATIVE DIVISION

dm
B...
T...
L...
Director's Sec'y

RE: MAKING AVAILABLE NOTES AND RELATED WRITINGS OF LAB,
IDENT, AND OTHER EXPERTS AS A JENCKS ACT REQUIREMENT
(TITLE 18, SECTION 3500).

REBUTELCAL TO RAPID CITY APRIL 8, 1976.

SPECIAL PROSECUTORS (SP) CONCERNED THAT THE JENCKS ACT
REQUIRES PER DEFINITION OF "STATEMENT" IN SECTION (C) (1) OF THE
ACT THAT THE NOTES AND RELATED WRITINGS OF FBI LAB, IDENT, AND
OTHER EXPERTS MUST BE PRODUCED. SP RELIES IN PART ON TERM AND
LANGUAGE OF RECENT U.S. SUPREME COURT CASE, GOLDBERG VS.

pa

U.S. DECIDED MARCH 30, 1976.

SP STATED HE DOES NOT INTEND TO MAKE THE NOTES AND
WRITINGS OF FBI AND OTHER EXPERTS AVAILABLE TO THE DEFENSE, AND THAT
LAB AND IDENT PERSONNEL DISCONTINUE ANY PLANS TO COPY SAME. SP

STILL CONCERNED THAT THE DEFENSE WILL MAKE AN EFFORT TO OBTAIN
THEM AND THAT THE JUDGE MIGHT REQUIRE THAT THEY BE TURNED
OVER TO THE DEFENSE. SP ADVISED THAT ANY ASSISTANCE RE LEGAL RESEARCH
AND RECOMMENDATIONS

ST 1042 REC 32 89-3229-263

23

Michael Erwin Anderson

During Peltier's trial the prosecution's witness and AIM member Michael Anderson testified of FBI coercion.

A: Yes.

Q And what happened at the end of that

A Well, I was refusing to talk until Gary

you don't talk, I will beat you up in the cell."

Q Gary Adams told you that?

A Yes.

Q And the other agent was present when he said that?

A Yes.

Q And did that make you afraid?

A Yes.

Q And did you understand that you would get beat up if you didn't give him the answers that he wanted?

A Yes.

Q And did you then give him the answers that you understood he wanted?

A Yes.

Q When was the next time that Special Agent Gary Adams talked with you?

A I don't remember.

Q Was it while you were still in Wichita?

A I don't remember.

Q Did Special Agent Gary Adams in that first interview with you tell you that one of the dead agents was a good friend of his?

A Yes.

Myrtle Poor Bear: False Affidavits

Mr. Leonard Peltier was arrested in Canada on February 6, 1976, and extradited from Canada in December on the basis of one of three separate (and different) affidavits signed by Myrtle Poor Bear, a Native American woman known to have serious mental health problems.

Affidavit of 19 February 1976—Here, Special Agents David Price and William Wood have Myrtle Poor Bear recount how it was she who overheard the planning of the Northwest AIM group to lure Special Agents Coler and Williams to their deaths in an ambush. Note that there is no claim Poor Bear witnessed the shoot-out, but that she heard Leonard Peltier order the agents killed beforehand, and that he later "confessed to her."

*Myrtle Poor Bear Deposition Exhibit 5
P.M. 5-27-76*

UNITED STATES OF AMERICA)
STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON)

IN THE MATTER OF THE EXTRADITION
ACT. R.S.C. 1970 Chap. E-21
AND IN THE MATTER OF LEONARD
PELTIER, also known as Leonard
Little Shell, Leonard Williams,
John Yellow Robe, Erwin Yellow
Robe, Leonard John Peltier

A F F I D A V I T

Myrtle Poor Bear, being first duly sworn, deposes and

states:

1. I am an American Indian born February 20, 1952, and reside at Allen, South Dakota, one of the United States of America.
2. I first met Leonard Peltier in Bismarck, North Dakota, during 1971. During March, 1975, I again met Leonard Peltier at St. Francis, South Dakota, United States of America. During April, 1975, I went to North Dakota to see him as a girl friend of his. About the last week of May during 1975 I and Leonard Peltier went to the Jumping Bull Hall area near Oglala, South Dakota, United States of America. There were several houses and about four or five tents. When Leonard Peltier arrived, he gave orders on what was to be done. I was his girl friend at this time. About a week after we arrived, about the second week of June, 1975, Leonard Peltier and several others began planning how to kill either Bureau of Indian Affairs Department, United States Government police or Federal Bureau of Investigation, United States Government, agents who might come into the area. Leonard Peltier was mostly in charge of the planning. All persons involved in the planning had special assignments. There was also a detailed escape route planned over the hills near the Jumping Bull Hall area. I was present during this planning. Leonard Peltier always had a rifle and usually had a pistol near him. The pistol was usually under a car seat. About one day before the Special Agents of the Federal Bureau of Investigation were killed, Leonard Peltier said he knew the

Federal Bureau of Investigation or the Bureau of Indian Affairs were coming to serve an arrest warrant on Jimmy Eagle. Leonard Peltier told people to get ready to kill them and he told me to get my car filled with gas to be ready for an escape. I left Jumping Bull Hall at this point and did not return. During August, 1975, I met Leonard Peltier again at Crow Dog's Paradise on the Rosebud Indian Reservation, South Dakota, United States of America. We talked about the killing of the two Federal Bureau of Investigation agents near Jumping Bull Hall. Leonard said it makes him sick when he thinks about it. He said that one of the agents surrendered, but he kept shooting. He said it was like a movie he was watching but it was real, he was acting right in it. He said he lost his mind and just started shooting. He said he shot them and just kept pulling the trigger and couldn't stop.

Subscribed and sworn to before me this 19th day of February, 1976.

Betty B. Berry
Deputy Clerk
United States District Court
District of South Dakota

Myrtle Poor Bear
Myrtle Poor Bear

I, Andrew W. Bogue, United States District Judge for the District of South Dakota, do hereby certify that attached hereto is the Affidavit of Myrtle Poor Bear, sworn to before Betty B. Berry, Deputy Clerk of the United States District Court for the District of South Dakota, whose signature appears on said Affidavit, and that the said Betty B. Berry, was authorized to administer oaths for general purposes and that the said Affidavit is in due form of law.

In testimony whereof I have hereunto signed my name and caused the seal of the said Court to be affixed at the City of Rapid City in the state of South Dakota, this ____ day of _____ uary, 1976.

Andrew W. Bogue
United States District Judge

Affidavit of 23 February 1976—With this affidavit, Price and Wood have Poor Bear present herself as being Peltier's "girl friend," and as overhearing planning for an ambush. However, with this affidavit, Poor Bear is now presented as having witnessed Peltier killing the agents. Details on an escape route apparently were designed to explain away the Bureau's embarrassing inability to apprehend suspects at the scene of the shoot-out. Also note how the method of killing corresponds to the FBI's contrived "execution" scenario.

UNITED STATES OF AMERICA
STATE OF SOUTH DAKOTA
COUNTY OF PENNINGTON

Peltier 3
Nick
IN THE MATTER OF THE EXTRADITION
ACT. R.S.C. 1970 Chap. E-21
AND IN THE MATTER OF LEONARD
PELTIER, also known as Leonard
Little Shell, Leonard Williams,
John Yellow Robe, Erwin Yellow
Robe, Leonard John Peltier

A F F I D A V I T

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the hills near the Jumping Bull Hall area. I was present during
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a pistol near him. The pistol was usually under a car seat.
About one day before the Special Agents of the Federal Bureau of
Investigation were killed, Leonard Peltier said he knew the

Affidavit of 31 March 1976—This affidavit was eventually submitted to the Canadian courts. Here, the agents totally abandoned the notion of Poor Bear's having overheard planning for an ambush. Instead they have her provide considerable detail as an "eyewitness." Note also the absence of any alleged confession on the part of Leonard Peltier.

UNITED STATES OF AMERICA)
STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON)

1138
IN THE MATTER OF THE EXTRADITION
ACT. R.S.C. 1970 Chap. E-21
AND IN THE MATTER OF LEONARD
PELTIER also known as Leonard
Little Shell, Leonard Williams,
John Yellow Robe, Erwin Yellow
Robe, Leonard John Peltier

A F F I D A V I T

130

Myrtle Poor Bear, being first duly sworn, deposes and states:

1. That I am the Myrtle Poor Bear, of Allen, South Dakota, United States of America, who was the deponent in an affidavit sworn the 23rd day of February, 1976. This affidavit is sworn by me to give further information.
2. Attached hereto and marked Exhibit "A" to this, my Affidavit, is a photograph marked February 12, 1976, and I testify and depose that the person shown on the said photograph is a person known to me as Leonard Peltier and is the person I spoke of in my deposition of February 23, 1976, and the person referred to herein as Leonard Peltier.
3. I recall the events of June 26, 1975, which occurred at the area of Jumping Bull Hall near Oglala on the Pine Ridge Indian Reservation in the State of South Dakota, United States of America.
4. Sometime during the early part of that day, at approximately 12:00 Noon, Leonard Peltier came into the residence of Harry Jumping Bull which is located in the area of Jumping Bull Hall and said, "They're coming." I understood this to mean that police or agents of the Federal Bureau of Investigation were in the immediate area. A short time later, I saw a car which I recognized to be a government car near Harry Jumping Bull's house. I went down to the creek bottom a couple of hundred yards from the house. I heard shooting. I left the creek bottom area and walked approximately 50 yards to where I saw two cars, both of which I recognized to be government cars, because of the large radio antennae mounted on the rear of these cars and I had previously seen many cars of a similar type driven by government agents in the same area. When I got to the car, Leonard Peltier was facing a man which I believed to be a special agent of the Federal Bureau of Investigation. This man was tall with dark hair. This man threw a handgun to the side and said something to the effect that he was surrendering. Leonard Peltier was pointing a rifle in the direction of this man. The man was

by his arm as if he was wounded and was leaning against the car previously mentioned. There was another man who I believed to be a special agent of the Federal Bureau of Investigation lying face down on the ground and there was blood underneath him. I started to leave and was grabbed by the hair by another person and could not get away. I turned again and saw Leonard Peltier shoot the man who was standing against the car. I heard a shot come from the rifle that Leonard Peltier was holding and I saw that rifle jump up still in his hands. I saw that man's body jump into the air and fall to the ground. The man fell face down on the ground. This happened in an instant. I freed myself from the person that was holding me and ran up to Leonard Peltier just as he was aiming his rifle at the man who had just fallen to the ground. I pounded Leonard Peltier on the back. He yelled something at me which I cannot recall. I turned, ran and left the area. As I was running away, I heard several more shots from the area from which I had just fled.

Subscribed and sworn to before)
me this 31st day of March, 1976.)

Jeanette Hanson)
Deputy Clerk)
United States District Court)
District of South Dakota)

Myrtle Poor Bear)
Myrtle Poor Bear)

113-0

Today, the government concedes that, in fact, Myrtle Poor Bear did not know Leonard Peltier, nor was she present at the time of the shooting. She later confessed she had given false statements after being pressured and terrorized by FBI agents. Myrtle Poor Bear sought to testify in this regard at Leonard Peltier's trial. However, the judge barred her testimony on the grounds of mental incompetence.

In addition to being a violation of Leonard Peltier's rights, the United States government committed fraud on the court during the extradition proceedings and violated the sovereignty of Canada. The U.S. government has made no attempt to correct this wrong and, to date, the illegal extradition has not been corrected by the Canadian Court.