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**Hearing
before the
United States
Commission on Civil Rights**

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**FEDERAL BUREAU OF INVESTIGATION
- INDIAN RESERVATIONS; POLICE ABUSE**

**HEARING HELD IN
WASHINGTON,
D.C.,
MAY 14, 1979**

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U.S. COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or the denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin;
- Submit reports, findings, and recommendations to the President and the Congress.

MEMBERS OF THE COMMISSION

Arthur S. Flemming, *Chairman*

Stephen Horn, *Vice Chairman*

Frankie M. Freeman

Manuel Ruiz, Jr.

Murray Saltzman

Louis Nuñez, *Staff Director*

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UNITED STATES COMMISSION ON CIVIL RIGHTS

May 14, 1979

The U.S. Commission on Civil Rights convened, pursuant to notice, at 1:00 p.m., in the Maritime Building, 1100 L Street, NW, Washington, D.C., conference room 1, Arthur S. Flemming, Chairman, presiding.

PRESENT: Arthur S. Flemming, Chairman; Frankie M. Freeman, Commissioner; Manuel Ruiz, Jr., Commissioner; Murray Saltzman, Commissioner; Louis Nunez, Staff Director; Frederick Dorsey, Acting General Counsel; Paul Alexander, Assistant General Counsel; Gail Gerebenics, Assistant General Counsel; and Linda Huber, Staff Attorney.

PROCEEDINGS

CHAIRMAN FLEMMING. I'll ask the hearing to come to order. Judge Webster, you might stand and raise your right hand.

[William Webster was sworn.]

TESTIMONY OF WILLIAM WEBSTER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

CHAIRMAN FLEMMING. Counsel may proceed with questions that they would like to address to Judge Webster, and the members of the Commission will have some questions.

MS. GEREHENICS. Judge Webster, would you please state your full name, title, and number of years in that position for the record?

MR. WEBSTER. William H. Webster, Director, Federal Bureau of Investigation, since February 23, 1978.

MS. GEREHENICS. Thank you.

Judge Webster, we've been doing a study on police practices, and a critical element in that study has been an attempt to ascertain the nature and scope of police misconduct. We've been having trouble

doing that because of the availability of information as to the scope. Are any of the statistics that your Bureau gathers designed to generate accurate statistics about police misconduct?

MR. WEBSTER. The only figure that I see regularly is that portion of our civil rights complaints which we investigate which have to do with excessive use of force or police brutality. We do gather figures of that nature.

MS. GEREENICS. Is there anything that the Bureau could do as part of its nationwide crime statistics collection efforts to include more information on this subject, any recommendations or suggestions you may have?

MR. WEBSTER. None that occur to me at the present time. Perhaps during the course of our testimony and questions when I know more of what it is that you're interested in finding out, I might be able to suggest something.

MS. GEREENICS. For instance, we understand that the FBI collects statistics on the number of police officers killed every year by civilians but not vice versa, not the number of civilians killed by police officers. Any suggestions along those lines?

MR. WEBSTER. We collect certain data from police organizations, law enforcement organizations under our uniform crime statistics. I'm not sure whether that would be of value. It's certainly a figure that statistically could be gathered if you request it. I'm not sure that it would be of any value unless it also reflected the circumstances of the shooting and all the details.

MS. GEREENICS. Could you briefly explain the relationship of the national headquarters of the FBI—its relationship to its regional offices in terms of formulating policy, oversight, or your actual participation in investigations?

MR. WEBSTER. This varies to some extent with the nature of the criminal activity or investigative activity that we're engaged in.

The 59 field offices are directly subordinate to headquarters. We have no intervening regional directors or regional operations. All the policy of the FBI flows from the Director of the FBI. I accept full responsibility for all FBI policies.

I, in turn, am responsible to the Department of Justice and the Attorney General to effect certain guidelines that are given by the Department to the Bureau.

Within headquarters we have a criminal investigative division, one of a number of divisions. In the division are a series of sections which deal with certain types of crimes. We have, then, within those sections units of more specialized areas of types of crimes.

We have three principal priorities in the investigative area, one of which is covered by an entire division, and that's foreign counterintelligence. The other two principal priorities are organized crime and white-collar crime. They are carried under separate programs under each of those categories.

Then we have, in addition to civil rights, personal property crimes and general property crime, antitrust, fugitives. I believe that I've probably named them all.

MS. GERE BENICS. An additional criticism—

MR. WEBSTER. Excuse me. I should say—because I think I could answer your question in a little more detail here. Within those divisions, then, we attempt to oversight the activities of the investigative field. We are committed, both in terms of our priorities and in terms of the dollars that are allocated to each program, to see that the money is applied to the programs for which they were designated and to try within each of those programs to upgrade the quality of the work done in each of those programs. And that is the type of oversight work that takes place within the divisions.

In addition to that, we have a Planning and Inspection Division which contains an Office of Professional Responsibility which is concerned with the conduct of the agents during the course of that investigation, and of course my own Legal Counsel Division which is concerned with the legal aspects of various crimes.

MS. GERE BENICS. An occasional criticism we've heard of the FBI is that some agents in the field are often reluctant to fairly investigate local law enforcement officials when there's a complaint of police misuse of force because of the close working relationship and the reliance of the FBI have and must establish with local law enforcement personnel. I was wondering if you would give us your comments on that?

MR. WEBSTER. Well, I suppose it would be safe to say that that might well be true in the case of a unique and close working relationship. We try to get around that by simply not assigning those who have that relationship to the conduct of investigations.

And we do not normally use—I think I can say that categorically—but I know that our policy is not, if there's an alternative, is not to use former police officers now special agents for purposes of investigating allegations of brutality or excessive use of force by State and local officers.

MS. GERE BENICS. Does the Bureau attempt to build any expertise among its agents—for instance, in the handling of civil rights issues and police misconduct?

MR. WEBSTER. I think the Bureau definitely attempts to make each special agent aware of the responsibilities in this area. Whether it's a special expertise, it's difficult for me to say. We have primary responsibility from the Federal point of view of investigating civil rights complaints. To that extent, we try to do our job in a superior way.

In the training that each new special agent receives at Quantico, at our FBI Academy, includes 60 hours of legal training, much of which is devoted to these issues. As a matter of fact, I was speaking in St. Louis on Thursday and I took occasion to remind my audience that we're probably one of the few organizations that requires each special agent to read the entire Constitution and the Bill of Rights in its entirety and then proceed from a discussion of those rights.

Every year in every field office each special agent receives at least 16 hours of inservice instruction. Then we have additional inservice training.

So to that extent I think we certainly attempt to make every special agent mindful of the rights of citizens and the particular kinds of violations which can occur in the course of law enforcement.

[William Webster, additional statement to the Commission on Civil Rights, Aug. 7, 1979, stated, "In addition, agents who have close relatives on the police department involved or have a close working relationship with the law enforcement agency involved would not be used to interview police officers." The additional statement can be found in exhibit 1.]

MS. GEREENICS. You made reference to your training academy at Quantico, and I know that part of your instruction out there deals with the appropriate use of deadly force.

MR. WEBSTER. Yes.

MS. GEREENICS. I wondered how that policy is communicated to the State and local law enforcement officers who use the Bureau facilities?

MR. WEBSTER. I'm reasonably certain that if you're talking about the national academy or police training that everyone is made aware of the Bureau's policy. It's not a policy that can be thrust on other law enforcement agencies, but it's very clearly our policy.

At the annual meeting of the National Organization of Black Law Enforcement Executives, or at the NOBLEE organization last year, that was one of the items on the agenda. And I arranged to have copies of our manual, procedures, and instructions made available to that organization the same that the issue came up so they would know what our policy is and why we have followed it.

MS. GEREENICS. My final question is, is the Bureau's standard, which is certainly more rigorous than in many local jurisdictions, is that the standard the Bureau uses in evaluating the use of deadly force by State and local officers in their own investigations?

MR. WEBSTER. Well, I want to be sure we're talking about the same thing. The Bureau's policy on the use of deadly force has to do primarily with drawing a weapon and using it, both in terms of a fleeing suspect or in terms of someone who is resisting arrest, and so forth. Police brutality allegations have covered a much broader range than that. It includes the treatment of a person in prison, beatings; a lot of these do not necessarily involve the use of deadly force that may result in injury or even death.

When we investigate a violation of a civil right, we have primary reference to the Constitution. In States—there are many State statutes which actually authorize the use of deadly force, and so we're not concerned there. It would be upon a constitutional standard, I believe, that we will investigate the use of deadly force or the excessive use of deadly force.

Ms. GERE BENICS. Thank you. I'm going to turn the questions over to Mr. Alexander.

MR. ALEXANDER. We're going to switch subject areas, so to speak, for our mutual convenience. All my questions will focus on the area of FBI responsibility with respect to Indian reservations and Indian issues generally.

Previously, in response to one of Ms. Gerebenics' questions, you laid out the structure of the FBI with yourself as the current Director responsible for policies of the Bureau. Could you tell us specifically how your office is involved in the formulation or execution of any FBI policies with regard to Indian issues?

MR. WEBSTER. Well, our primary jurisdiction as it relates to the Indians is the major crime statutes.

MR. ALEXANDER. Yes, we're aware of that.

MR. WEBSTER. There are a few other statutes that's peripherally involved, but I believe that that is the primary basis for our activity on Indian reservations.

MR. ALEXANDER. Beyond the jurisdiction of the Department of Justice, with respect to the statutes that you investigate, are there specific policies that the Bureau has with respect to conduct of agents on Indian reservations or how major crimes investigations are to be carried out as opposed to anything else? Are there any specific Indian policies within the Federal Bureau of Investigation?

MR. WEBSTER. I'm not aware of any specifics of the type you're talking about, Mr. Alexander. I just may not be focusing on the particulars. If it is a crime, we would investigate it as any other crime.

Given a particular reservation and the conditions on that reservation, we might take measures that might differ from some other reservation. I have in mind particularly the safety of the agents in an area where there is a great deal of tension versus an area where the agents are well received and receive full cooperation.

MR. ALEXANDER. You mentioned previously that on the D.C. level that you sort of performed an oversight of the field function. As I understand it, that's a shift in FBI policy in the last decade where there was more direction, say, in the early part of the '70s. That has been the indication from interviews by some of our field staff.

In terms of oversight could you spell out for me, with respect to the general government crime section, what role it would play with respect to Indian issues?

MR. WEBSTER. Well, when you say "Indian issues," I think you're going to have to give me a little more. We have crimes on military reservations and we have crimes on Indian reservations.

MR. ALEXANDER. FBI activity on Indian reservations—be it the investigation of major crimes, assimilated crimes, or in other jurisdictions under the General Crimes Act or complaints against individual FBI agents relating to activities on the reservation or against urban Indian organizations.

MR. WEBSTER. It's my understanding that every complaint of misconduct by an FBI agent must be reported to headquarters. When it is reported to headquarters then it is investigated under the direction of my Office of Professional Responsibility. I see the results of any investigation and so does the Office of Professional Responsibility of the Department of Justice.

I'm not aware of any complaints currently pending with the Office of Professional Responsibility, nor of any complaints within the last several months, although I might have missed one because it might not have been identified as a complaint from an Indian reservation.

MR. ALEXANDER. Do you see the complaints on an individual basis or do you, say, on every 6-month basis see in addition to perhaps a statistical summary which maybe compares the volume and disposition of complaints in Indian country versus military reservations versus an urban area?

MR. WEBSTER. No statistics of that type are compiled. I do see a monthly report of the complaints and the status of the complaints with a capsule summary of the allegation. That's what I see. If my curiosity is aroused by what I see or the disposition that is proposed to be taken or has been taken, then I ask for more information.

MR. ALEXANDER. Is there any sort of comparative summary information that is done on complaints, whether a particular kind of complaint, alcoholism or what have you, occurs more frequently than anything else?

MR. WEBSTER. You mean alcoholism by an agent?

MR. ALEXANDER. Yes, just as an example.

MR. WEBSTER. I don't think we have gathered that type of statistic. The volume really wouldn't warrant it, I don't believe, at the present time. Should we develop an excessive number, I would want to know about it, but I don't think we have any complaint of that type.

MR. ALEXANDER. You said there were no current pending or open complaints. I want to verify something that we've been having a little difficulty tying down. Is it a policy of the FBI when there is a complaint from a citizen or a member of Congress, whoever, against the conduct of an agent to notify the complaining individual that it has either been investigated or that some disposition of the complaint has occurred?

MR. WEBSTER. I believe there is no such current policy, and I'm talking about across the board on any kind of complaint, no such current policy.

From time to time we receive a congressional inquiry. We have always responded to that inquiry as to what disposition, if any, were taken with respect to a constituent.

MR. ALEXANDER. This Commission about a year ago held hearings in South Dakota, and at that time several of your agents testified and there were a number of complaints that the community was aware of, which action may have been taken by your agency, but they were still

active in people's minds. The same testimony from the same agents, they said, "We have an affirmative action program to recruit Indians, yet we seem to be having great trouble getting anybody interested in that geographic area."

MR. WEBSTER. Well, first, I think we must be aware of the privacy laws that really make an internal investigation and an administrative investigation a private matter except in the most unusual circumstances in which the matter has become a public matter through no fault of the FBI. We really have no right to disclose administrative action taken against someone where we investigate and find no wrongdoing. I think we can confirm that it's been closed because we found no evidence of wrongdoing.

But I'm speaking about all internal disciplinary actions. I've been so advised by my counsel. Even when I had the 68 agent cases which was public, a well known investigation, I did not personally disclose the names of those who were involved. So it isn't that I am opposed to it, but it is simply a matter of compliance with the law.

MR. ALEXANDER. Judge Webster, are you familiar with the task force report of the Department of Justice from 1974-75 era which did an internal review of the entire Department?

MR. WEBSTER. Yes, I am.

MR. ALEXANDER. You are.

In that report it was suggested that FBI functions on Indian reservations were perhaps duplicative of that of the Bureau of Indian Affairs and of perhaps the tribal police and that the FBI should be shifted into a secondary responsibility rather than a primary responsibility for major crimes. Could you tell me whether the FBI was involved in that study, first of all?

MR. WEBSTER. The FBI was not involved in the study but did supply comments to the study afterwards.

[William Webster, additional statement to U.S. Commission on Civil Rights, Aug. 7, 1979: "Special Agent John C. Gordon, retired, was a member of the Task Force who did the study." The additional statement can be found in exhibit 1.]

MR. ALEXANDER. Are you familiar with what the Bureau's position at the time of the study was on that recommendation?

MR. WEBSTER. Yes, sir.

MR. ALEXANDER. Could you tell us?

MR. WEBSTER. I believe that the Bureau's position was opposed to that recommendation.

MR. ALEXANDER. And currently the Bureau's position—your personal position would be?

MR. WEBSTER. Well, my personal position would be that if the BIA and other law enforcement agencies within the Indian reservations had the competence to fully protect the rights of the Indian residents on those reservations that the Bureau would be favorably inclined to discharging its statutory responsibilities on request—that is, investiga-

tive responsibilities—upon request of the U.S. Attorney or the Bureau of Indian Affairs, whoever would have authority to request Federal assistance.

I say that because, as you know, we're trying to operate on an increasingly demanding jurisdictional level with static and in fact diminishing resources. Between 1976 and the end of 1980, we will have lost over 1,000 special agents by budgetary attrition. This means that we have an obligation everywhere in the United States—State, local, and on Indian reservations and other places—to not be duplicative, to create the maximum amount of cooperation, and this we're trying to do. Bank robbery is an illustration of our efforts in that direction.

The policy decision that has to be made by others, I think—it's not one that we can make alone—is the present capability of BIA and others to fully discharge those responsibilities.

The other thing I could say as an aside is that I would be very unhappy if we developed a program in which we were called in, not at the beginning of a difficult case, but after the case had gotten itself so turned upside down that we couldn't do anything.

Those are the types of things that we've been working on, say for instance, with the relationship between the FBI and the Inspectors General in these new areas. If we can deal with alternative plans, you'll find me very receptive.

MR. ALEXANDER. We're aware from our field research that this is going on to some extent in individual areas. We are aware from the U.S. Attorney in Phoenix and the resident agents there that this is being done under the guidelines, but is there any ongoing discussions between the Bureau, the Department of Justice, and the BIA as the way to plan this?

MR. WEBSTER. It is my understanding that there really is not. BIA is highly dispersed in terms of its authority and activity. I'm not sure that there's been much carryover from the 1975 recommendations.

I think perhaps it would be well to try to reconstitute some discussions in this area. We are, as you pointed out, having on-the-site or ad hoc discussions with the U.S. Attorney very much involved in particular areas.

I've asked and I've been advised that the level of cooperation and coordination is spotty; it's very good in some places and nonexistent in other places.

MR. ALEXANDER. Well, on a national policy level, does the Bureau on any systematic basis sit down and discuss Indian policy with any of the other actors in the Federal Government on your level, other than with the Civil Rights Commission?

MR. WEBSTER. I think the answer to that has to be not unless there has been some problem created that requires other groups to deal with the problem. I don't think that we have been involved in national policy with respect to the Indians in any significant way.

MR. ALEXANDER. In respect to your current recordkeeping system, would you be able at this point in time to identify those reservation areas where the training of the Bureau, BIA, or the tribal police, perhaps with the help of the Bureau at Quantico, has been sufficient that you could rely on them for primary investigation, or do we have that information?

MR. WEBSTER. I expect that the information is out there. It's not on a single piece of paper. And I think by querying about 15 field offices I could probably give you a rather rough response for the record of where we find or where our experience at least tells us that there is a higher level of capability.

MR. ALEXANDER. If the Federal Government were to design a phased-in plan, would it not be necessary to have such an ongoing data system or evaluation system?

MR. WEBSTER. Well, I realize it must be frustrating to you to have the people that you ask not give you the kind of figures that will help you draw meaningful conclusions.

MR. ALEXANDER. Yes.

MR. WEBSTER. It's disappointing to me that we don't have that type of a figure, but there are rational reasons for it.

Our major crimes program falls within our general crimes program, and it is the general crimes that we keep figures on. We really weren't trying to figure out the difference between an Indian reservation and some other place.

So the nature of our current statistics doesn't provide us with the ability to ask the computer the kinds of questions you would like it to answer. We would have to go back to the field offices and review manually all the records that fall within the general property and crime programs to develop any kind of figures. It would be very nice to have this. There are units and groups within the country who would like to have similar figures. All I'm saying, I hope you give us the people or help us get the people when we have these extra assignments given to us.

MR. ALEXANDER. Well, to move from the statistics on Indian reservations compared to any other place where the FBI has jurisdiction to investigate Federal offenses, is there any system within the Bureau—within your planning operation or whatever the equivalent of your Inspector General would be—that would sort out your functioning in Indian country as compared to any other functioning that you do to see whether or not there were any unique problems working in Indian country, whether there's any particular specialized training that might be needed, or what have you? Is there any way of constantly evaluating that as opposed to any other function?

MR. WEBSTER. Well, the Indian reservation and the Indian sovereignty question of tribal courts are really unique, and they're different than most other types of ethnic group situations and we probably should know more than we do.

I don't think it's just the Bureau. I think it's the Department of Justice has some expertise or should be developing some expertise in this area, and I would favor knowing more about these problems, whether we do it on the basis of our RMIS [phonetic], as we call it, our statistical gathering system, or on some other basis. But I would like to know those things.

When we do, when we have an inspector go in our inspector group, our inspectors go in to conduct an inspection in a field office, they tend to look at a resident agency and the crimes that are taking place in that area and it might be, say a resident agency, they tend to look at, in terms of the adequacy of the complement, the ability to respond promptly and effectively. I'm sure that they do not look at it from any sociological or other political type issues. If those issues are out there, and I suspect they are, we ought to have a better handle on it. We do try to keep on top of these issues and keep our new agents generally educated and sensitive to them, but we don't have a current sociological means of gathering that data. I'm not sure that's our responsibility, but I'm sure we could contribute to it.

MR. ALEXANDER. With respect to new agents in training or training of existing agents, is there in the academy, other than what are the 14 major crimes, such jurisdictional matters, is there any special training with respect to functioning on an Indian reservation?

MR. WEBSTER. I don't suppose they've got an Indian reservation A or B. We do, as I mentioned earlier, we have extensive training in civil rights, and that would include the Indian Civil Rights Act.

MR. ALEXANDER. For sure.

MR. WEBSTER. We also have several hours of behavioral sciences. Within that category we take up cultural patterns which include not only Indians, but Hispanics and other groups and the inner-city problems dealing with distinct and discrete cultural bases.

I don't think that anyone goes out of there an Indian expert. Our people don't know where they're going, and they go everywhere and they're reassigned frequently.

We do try to deal with some of these questions on regional inservice training programs, and that is a responsibility of the special agent in charge in the area to be sure that his agents are current with such problems.

MR. ALEXANDER. You mentioned that agents are transferred with some frequency. It's been a bit of a surprise to some of us who have spoken with your general crime section over the year and probably talked to three different people who have been in charge in that period of time. What is the rationale for the annual, or semiannual, transfer policy?

MR. WEBSTER. Well, it's really not that frequent.

MR. ALEXANDER. It just seems so.

MR. WEBSTER. In talking to headquarters, I'm sure you've encountered some changes. Almost all of the shrinkage in the FBI that I

referred to earlier has occurred in the Criminal Investigative Division. This is where the budgetary cuts have come from, been expressly assigned to the Criminal Investigative Division and our coordinating function has suffered, and we've had to shrink down fewer and fewer coordinators.

Also, of course, headquarters is a part of our career path, and many of these people were then getting the supervisory desk experience and then going back into the field to pursue responsibilities.

MR. ALEXANDER. I guess what I—

MR. WEBSTER. We lost 800 special agents in February of last year, which has—because of the mandatory—the effective date of the mandatory retirement statute at age 55, and that created a whole domino series of movements.

I don't know that we are moving them any more than they were being moved 5 or 6 years ago, but I'm trying to develop some stability, but I can't do that until the dust settles on all these vacancies that have to be filled.

Paradoxically, there is some advantage to movement, I suppose. One of the charges that I had to meet in the South from some quarters was that we left people in the South too long and they may become less sensitive to civil rights issues by reason of having lived there too long. I don't buy that argument, and statistically it's not correct. But you get it from both directions, stay too long or not stay long enough.

I would like there always to be in every field office those who understand the problems of the people in the community that we are there to serve.

MR. ALEXANDER. I guess, since it has been a pattern preceding the cuts, and the transfer has been a fairly routine pattern of the FBI that on Monday one can work in Spanish Harlem, Tuesday on Pine Ridge, whether there is any way of knowing from a Washington level as to whether or not the senior agents in charge or the local resident agent are in fact effectively making a transition for an agent who comes out of an urban setting into a rural reservation—is there any system for evaluating them? The work on Indian reservations is unique, it's fair to say. Is there any way that you would know whether you have a problem?

MR. WEBSTER. Well, there are two ways that I would know. One would be my inspectors who would see that things were not right there; the other would be from the public, that is, the community response. If we detect any type of unusual activity or complaints, whether it be in the newspapers or be by individuals out there, I think we would be able to detect any failure on the part of the field commander to maintain the property.

MR. ALEXANDER. Leaving the Pine Ridge Reservation aside for the moment, is it your perception that the FBI does or does not have a problem, with respect to its functioning on Indian reservations, or at least a community perceived problem?

MR. WEBSTER. If you leave the Pine Ridge Reservation out of the picture, and that's leaving quite a piece of the picture out, it's my current perception, which I hope to have more carefully fine tuned as I get out into those areas a little more, that we really do not have much of a problem.

I'm using gross figures now, but of about 500,000 Indians on reservations, I think about 300,000 are generally in the Southwest. And it's my impression, and I can only give it to you as an impression, that we do pretty well among the Navajo, for instance, and the special agents are regarded there by reason of their performance and their relationships and cooperation rather highly, and that's the impression that I have.

The problem is one, if you want to identify problems, one problem that will always be a problem is geography. There's just a lot of space out there to be covered with a relatively thin population. And since we do investigate major crimes, it may seem from time to time that it takes longer to get a response to a major crime than it would in Brooklyn.

MR. ALEXANDER. You used the term "impression." Would it be fair to say that your view is an impressionistic view rather than, say, a hard data view from reports filled by agents?

MR. WEBSTER. Yes. It's the absence of record trouble that gives me this impression, plus discussions with those who have served in those areas and report to me their impressions of how they were received and how they got along with other enforcement agencies in the area.

MR. ALEXANDER. Turning to South Dakota for a moment, what is your view, current view, as to the FBI's reputation or lack of problem, or fact of problem, in functioning in the South Dakota setting?

MR. WEBSTER. Well, currently I'd say that we are operating in an area that still has the residual tension but not very much in the way of civil disturbance or major political violence.

I think, as I recall, last summer there was a brief momentary takeover of one building out there to commemorate one of the incidents, and it went off without anybody getting hurt or any destruction of property.

As far as individual agents and how they're treated or how they're regarded, there still is, as I recall from my—I got some of those cases, you know, on the Eighth Circuit—and having read a number of records after that, from what I've seen recently, I think that we still have a problem of an uncertain constituency in that area.

The AIM [American Indian Movement] group is very strong. The other side is very strong. There is a lot of internal struggle, and sometimes the agents, based on partly because of the two assassinations on Pine Ridge a few years ago, are cautious with respect to their own safety, and we want them to be and expect them to be.

I'm not aware that that has resulted in any kind of horsing around, that is, that the agents have been any less respectful of people's civil

rights because of it. They've taken in many cases a few more precautions for their own safety. In some areas we have two or more agents traveling together. In most parts of the Indian country, as I'm told, usually it's enough for one agent to travel with a BIA member or accompany an Indian police officer.

It's going to vary from situation to situation. There's residual resentment and hostility still there, I'm confident, from the Wounded Knee days, a tendency to read wrong motives in the conduct and so on.

But the absence of any serious complaints about conduct leads me to believe that what is there is there at a low threshold; it wouldn't take much to create it again. But it's not—we're not battling it. We're not there as peace keepers, and I hope we're never there again as peace keepers.

MR. ALEXANDER. Do you believe it that was a mistake in Federal policy to use the FBI as a local police force during that situation?

MR. WEBSTER. Well, I don't know whether I want to say it was a mistake, but it was a regrettable situation to put the FBI in. And I said in my Senate confirmation testimony that I hope that would never occur again.

We have to face up to that type of situation from time to time in trying to understand what the administration policy will be on the various levels of terrorism, and the lessons of Wounded Knee are very fresh as far as I'm concerned. We're not trained peace keepers, and we shouldn't be used for that purpose.

MR. ALEXANDER. You mentioned the American Indian Movement a moment ago. At our hearing in March several members of the American Indian Movement testified—actually right where you are right now—and it was the impression from their testimony that they felt that their organization was viewed with great suspicion and that—particularly by the FBI—and that where anyone on a reservation was identified with the American Indian Movement by bumper sticker, button, or what have you, that the FBI tended to overreact in pursuing a search and seizure, for example, or looking for a fugitive. Have you had over the past 6 months or 1 year formalized complaints of that nature?

MR. WEBSTER. No, I don't think that I have. I can check and correct the record if I have had—

MR. ALEXANDER. We would appreciate that.

MR. WEBSTER. As far as search and seizure, we've got to follow court procedures for search and seizure. As far as domestic intelligence investigation, we follow Attorney General guidelines with respect to this. And as far as individuals are concerned, we do not investigate individuals or organizations unless they are planning or there is evidence that they are planning or in fact engaging in acts of force or violence directed against the United States or one of the instrumentalities of the United States or against civil rights. So we adhere strictly to those.

If I were a special agent with the events that are so recent on hand, I think I would tend to be a little bit more on the alert if I were dealing with somebody who was advertising his association with AIM because of the past events. That would not permit me or authorize me to deal with them in terms of their rights in any different way.

MR. ALEXANDER. Mr. Bellecourt, who testified, who is a well-known name associated with AIM, quoted from former Director Kelly's testimony at the Peltier trial, which Mr. Kelly was asked whether the American Indian Movement was a subversive organization and said, "It's my very definite knowledge of the American Indian Movement is a movement which has fine goals, has many fine people, and has a 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." I've seen the trial transcript that verifies that quote.

Is that an accurate at all reflection of the current view of the FBI as to the American Indian Movement?

MR. WEBSTER. Well, there's a significant change in policy with respect to characterizing organizations as subversive or nonsubversive. We just don't do that anymore. The subjective fact test now, are they planning or engaging in acts of force or violence?

And I prefer not to comment on the purposes or goals of AIM. I'm not sure that I'm that much aware of it, but I can assure you that any investigative activity that may involve AIM will be conducted under Attorney General guidelines.

MR. ALEXANDER. Could you tell us a bit about what role the FBI is playing in trying to upgrade the tribal, BIA police force? It was touched upon earlier in the testimony. What use is being made of Quantico and whether that's given any priority in terms of training BIA and tribal police?

MR. WEBSTER. I don't think that we've given BIA any priority, but by tradition we have at least one, and maybe only one, but we always have at least one BIA officer in the national academy program. That's for 1 year. I don't think we keep any records on tribal officers. They apply for appointments just as any other local law enforcement agency would do, and I just don't think we have that—right—any statistics on that.

In addition, we try to provide, when funds are available, police training on a national basis—that is, in the field offices—so that police training out of Minneapolis, for instance, would necessarily include offers of assistance to tribal and BIA officers.

MR. ALEXANDER. I'd like to get back to the priorities that were mentioned earlier in your testimony.

MR. WEBSTER. That's being cut, incidentally.

MR. ALEXANDER. Which is being cut?

MR. WEBSTER. Training, in the current budget.

MR. ALEXANDER. Training?

MR. WEBSTER. Not against—training across the board. Unless Congress restores it, there'll be some reductions in training.

MR. ALEXANDER. Particularly that that is made available to—

MR. WEBSTER. No, just across the board.

MR. ALEXANDER. Just across the board.

The phrase in a number of interviews that we've done, "management by objectives," the priority system that the FBI uses is one, two, three, and four; it's a management by objectives. Could you explain what that means in the FBI context, what it means to be a priority three or two or a four?

MR. WEBSTER. [Laughing.] I've come recently into these terms, and I'll tell you what they mean to me.

They mean primarily an identification of those areas of criminal activity which impact most heavily upon our society. White-collar crime impacts especially upon the poor and the disadvantaged because it's the consumer who usually feels the impact; it's not a graduated tax, it goes across the board.

Organized crime, likewise, has that impact. White-collar crime includes political corruption, which is a betrayal of citizenry trust.

Foreign counterintelligence you have to treat separately because that's all classified. You can't go into details about it.

But those being the areas of primary impact, we try to devote an increasing number of our resources to them on an ongoing programmatic basis. That is, we try to identify activities that are going. We find a pattern of kickbacks and rip-offs in a particular community or particular industry, we go after it. That is the objective side of it.

Now, we try within each program to upgrade the quality. In our white-collar crime program, bank fraud of under \$1,500 is not a high priority. It's a white-collar crime, but it's not an important white-collar crime.

MR. ALEXANDER. These priorities, do they determine the allocation of personnel by the FBI?

MR. WEBSTER. Well, in a way, their outcome determines it. In a sense they do because as we get more and more business in that area, we tend to draw away from our other programs, but we tend to draw away from those that require less and less attention.

MR. ALEXANDER. And the priorities—I'm sorry.

MR. WEBSTER. Military fugitives are a good example. Most military fugitives have gone home. They don't really need our attention. The Army can find them at their residences.

Single car thefts. We draw away from the lower level to make agents available.

MR. ALEXANDER. And these priorities are national; is that correct?

MR. WEBSTER. The priorities are national. There will be some adjustment. In Atlanta the bank robberies skyrocketed, so they doubled their bank robbery squads to deal with that situation.

There is one point that doesn't come through in this description, and I certainly want to make it clear for the record. Terrorism, for instance, occupies the same level of priority as civil rights, which is below the level of these three in terms of resources, mostly because civil rights and terrorism each account only for about 2 percent of our total activity. But given an act, a violation of civil right, or given an act of terrorism, there is nothing in a field office more important than those events, and they get immediate, continuous, ongoing investigation.

Civil rights differs from terrorism in some respects in that the handling of a civil rights case is carefully supervised at levels, at stages by the U.S. Attorney and the Department of Justice. So we can only go so far and then the Department has to tell us go further and we go further, but it's immediate and ongoing and it's top priority, but it reflects the impact on society. We really physically can't spend the money on it. It's not something we just keep adding people to. It's a question of how much of it is there.

MR. ALEXANDER. As I understand it, major crime enforcement is a priority three and that is nationwide; it's basically less than 1 percent of your personnel allocation. But to get into—

MR. WEBSTER. It falls within general—

MR. ALEXANDER. In particular districts, for example, Phoenix, it will account for 30 percent or better of the workload there. I know last year the U.S. Attorney in Phoenix wrote you and I believe the Attorney General and asked that major crimes, government crimes, be upgraded as a priority.

MR. WEBSTER. I know that.

MR. ALEXANDER. Was that done?

MR. WEBSTER. No, it was not done, and that would have included the whole range of personal crimes. It was not done simply because it was inconsistent with our effort to identify those which have the greatest impact on our society.

Everybody would like to have them up at the top. There are a lot of us. As I explained the treatment of civil rights and terrorism, but, however, what he wanted to achieve, I think, he did achieve in a sense, in this kind of a sense.

We had an emergency need for about 100 special agents in foreign counterintelligence, and we drew from all over the country to put those agents in the cities, the establishment cities, where the work was needed. And when we got down to Phoenix, the protest there was that they needed these six agents we were going to take from Phoenix to work the Indian reservations and we left them.

MR. ALEXANDER. These decisions, as to the priority and the allocation of personnel, are those yours exclusively, or do those require the concurrence of the Attorney General in terms of the priorities?

MR. WEBSTER. The priorities are worked out with the Attorney General and it becomes his and the administration's priorities. The allocation of resources is my responsibility.

MR. ALEXANDER. We, in our invitation to you, made a request for some data. I was wondering if that was available. I can run down the list if you will.

MR. WEBSTER. I think that information is not available for reasons I tried to give earlier, but I'll amplify those if you want.

MR. ALEXANDER. There were six different items that I'm referring to. The curriculum and training materials from the academy related to Indian law and Indian affairs.

MR. WEBSTER. I didn't bring those, Mr. Alexander. I have only been in the office about an hour; I've been out of town since last Thursday or Wednesday night. But if you need any of this, I'll try to supply what we have for the record. What we don't have, I can't supply.

MR. ALEXANDER. Okay, and any item that the FBI would not make available that we have requested, be it relative to the investigation or statistical—

MR. WEBSTER. Yes.

MR. ALEXANDER. Could we have a statement from you as to the grounds—

MR. WEBSTER. That it's not available and why?

MR. ALEXANDER. Yes, please.

MR. WEBSTER. Certainly. I'll be glad to do that.

MR. ALEXANDER. We'll appreciate it.

Mr. Chairman?

CHAIRMAN FLEMMING. Thank you very much.

I have just one question before I turn to my colleagues. We held a hearing in Philadelphia 2 weeks ago on allegations of police brutality, and two—a number of our witnesses were from the business community. They testified that as far as the business community was concerned that they had made up their minds that if you're going to have aggressive law enforcement or aggressive action against crime, one of the prices that you've got to pay is a certain amount of police brutality. That testimony attracted a good deal of attention.

Growing out of your experience, both in your present position and in other positions, I'm just wondering if you'll give the Commission the benefit of your own comments on that kind of an approach.

MR. WEBSTER. I have some difficulty with that kind of an approach. I think it paints with too broad a brush. I think a case can be made out for understanding that when you have situations of an emergency type, such as strong acts of civil disturbances with large numbers of people involved, that the situations may often become tense and actions have to be taken in a hurry and some of those actions would exceed what we would hope would be normal police conduct. That's not to justify it, but simply to say sometimes you can look—it's different to look back in retrospect with 20-20 hindsight and say you should have done it in this precise way rather than that way.

And I think some allowance, perhaps, has to be given for the emergency. We try to train our special agents so that they are prepared for

any emergency that may confront them and will act in such a way with the necessary restraint and, at the same time, aggressively pursue their responsibilities. Sometimes that's a very difficult task.

I can't accept the concept at all that once a person has been taken into custody that aggressive policy permits a violation of their rights while in custody. One thing that always comes clear to me is that once you deprive a person of his liberty you have an obligation to protect him and keep him safe from harm, and I feel that very strongly. I'm sure that's consistent with the views of all of our special agents.

CHAIRMAN FLEMMING. Thank you very much.

Commissioner Freeman?

COMMISSIONER FREEMAN. Judge Webster, as you know, this Commission has been holding a series of hearings on Indian issues since 1972, when we were in Albuquerque, some of the same issues arose. And in Rapid City one of the concerns of the—one major concern of the testimony was the delay with respect to the investigation of a major crime, and there was some feeling—and I'm not sure how valid this is—that for one of the investigation a person, the victim, there was never a redress so, therefore, there was a breakdown of law enforcement.

Then there was another concern, and that was that the limited jurisdiction of the tribal police and the arrogant attitude of the non-Indian who came onto the Indian reservation and committed a crime, and there was absolutely no protection.

I wonder if you could comment from your standpoint on both of those, with any recommendations that you feel that we could make in our report.

MR. WEBSTER. The first half had to do with delays and problems of that kind; the second had to do with jurisdiction.

I mentioned earlier that there is a problem of geography. There's just a lot of ground to be covered by a very thin population, and that makes it more difficult to respond.

I'm surprised that those feelings were expressed that way in Albuquerque; I might have understood them better in some other parts of the country.

COMMISSIONER FREEMAN. This was in 1972.

MR. WEBSTER. Oh, I see. Yes. In some areas, when we get there, we find very little information. It's hard to get anybody to say what has happened because of the concern, not having to do with the FBI, but having to do with parties that were involved and the ongoing tension between rival factions. And that's only a partial explanation.

I do sense that there must be some frustration for unsolved cases because, if they are old, they are harder to solve. You're absolutely right on that.

In terms of the jurisdictional aspect, I think I have to say in all candor that if I were a citizen living on a reservation I would be very, very unhappy with the current arrangement, if you could call it an arrangement.

Now, part of that flows from the insistence of the American Indian on preserving the tradition of nation-states and the right to have sovereign courts in addition to those provided by the Federal Government and an apparent continuing hostility to State law enforcement agencies as such. The attempt to accommodate the ancient treaty, the old treaties, and the tradition of sovereignty is partly responsible for this mess. And I think you can only call it a jurisdictional mess. When I sat on courts that had to decide which law governs and which law enforcement agency had jurisdiction, you'd find a reservation that included, say, North Dakota and South Dakota and a different rule in one part of the reservation and another part and it had to be resolved at a higher level. I don't wonder that the American Indian may lack some confidence in the system, but he's part of the problem in the sense that the insistence upon the tribal status preserves some of these problems.

I don't have a solution for it except to recognize that it is a difficult problem. It is probably, as Mr. Alexander said, in many cases duplicative. And I worry less about the duplication than I do the gaps when no one fills the hole.

I don't think the FBI is the answer to this problem. I think that something else could be. You also have two departments, the Justice Department and the Department of the Interior, with separate law enforcement agencies that are involved. If you could solve that problem, you would have solved one of the real problems in law enforcement and in the problems of the American Indians.

COMMISSIONER FREEMAN. Would it be correct that the FBI has the superior resources for training law enforcement officers?

MR. WEBSTER. Well, we like to think we have the finest training academy in the world. We have managed to preserve our resources in shrinking times for the academy, but we have lost resources for training at the scene, police training instruction.

There are other police academies—that is, law enforcement academies—all around the country and some of the States provide training academies, but I think it is fair to say that we do have the best.

COMMISSIONER FREEMAN. Well, you mentioned that there were two agencies involved, the Justice Department and Interior. Then would it probably not be appropriate for the President—could the President not resolve this by an order at least making all of the BIA agents, all of them, not just one for each course, but all of them come through the training program?

MR. WEBSTER. I don't know how many BIA agents there are out there, and so from a logistical point of view, we would probably have to look at what our capabilities are. We train about 1,000 agents from State and local law enforcement each year. We can accommodate about 700 people at our training facility at any time, including our own special agents. So we have some logistical problems to deal with.

It may be that the answer is to establish another training organization within BIA which would take—would also include the potential for developing some expertise on some of the special problems in greater depth than we're able to accommodate with a full schedule of other subjects. But the FBI is willing to do its part in upgrading the quality of law enforcement on Indian reservations, given the resources to do it.

COMMISSIONER FREEMAN. Well, could you submit to—perhaps give some further thought to this and submit to this Commission your ideas of how it could be done and that we could insert it into the record at this point and then make our appropriate—make our recommendations accordingly?

MR. WEBSTER. I'll be glad to do that.

CHAIRMAN FLEMMING. Without objection it will be inserted in the record at this point.

Commissioner Ruiz?

COMMISSIONER RUIZ. Yes.

Judge Webster, in a response to another question put to you by Mr. Alexander of being able to compile statistics of civilian police killing as against the noncompiling of statistics of police civilian killings, you answered that where police killed civilians, in your opinion, the gathering of such statistics would not be of any value. I don't mean to say that you meant to say that, but that's what you said.

MR. WEBSTER. No, I'm glad that you gave me an opportunity to correct the record if that's what I in fact said.

COMMISSIONER RUIZ. Well, I think you—

MR. WEBSTER. "Unqualified" is what I meant to say, unexplained. There are many people who were killed resisting arrest, in the acts of committing crimes, shooting at police officers, and those figures would certainly have to be differentiated from or qualified as to how they were killed. Otherwise, we don't know very much.

COMMISSIONER RUIZ. Well, I thought that you meant to imply that there were some complicating factors in cases of police homicides in counterdistinction to civilian homicides.

MR. WEBSTER. Well, when police are killed I'm not aware of too many cases when we would gather a clear figure that policemen ought to be killed.

COMMISSIONER RUIZ. Well, now there may be some thought there that where a civilian kills a law enforcement officer that local police authorities open their files to the FBI, but if a police officer kills a civilian, the local police authorities do not open their files to the FBI during the local investigating case. Is that one of the elements?

MR. WEBSTER. Well, there has to be a complaint with respect to a killing. We don't investigate every death that results from a law enforcement incident. There has to be a complaint associated with the killing. That complaint could be a charge made in the newspaper that somebody said that they watched the police officer and the police of-

ficer shot him while he had his hands up against the wall and was standing there. We would most certainly investigate that and insist upon knowing what the record is.

COMMISSIONER RUIZ. Let's take the Eulah Love case that's pending in Los Angeles at the present time. That's a case involving a black woman that had a \$47 gas bill to pay. Two police officers emptied their respective guns in her body because she had a knife in her hand. Now, I don't know whether a complaint has been filed, but there's been a great deal of publicity over that, and there's an investigation taking place now. Does the FBI have any concurrent jurisdiction to go in at this time? Is there sufficient hullabaloo about it going on at the present time so that your organization would be getting into that? Or do you wait when you say for an official complaint to be filed by somebody in a court of law or something? This is what I'd like to know.

MR. WEBSTER. No, that's what I meant by a newspaper article. A complaint, just a statement made at the time of the incident reported in the newspaper would be sufficient to warrant a preliminary investigation on our part.

COMMISSIONER RUIZ. Have you entered into that investigation?

MR. WEBSTER. On this particular case?

COMMISSIONER RUIZ. Yes.

MR. WEBSTER. I can't tell you—

COMMISSIONER RUIZ. There's been a great deal of publicity nationally on that, and in the State of California particularly, and this is within the time that you've been Director here, within the last 2 weeks. And I was just wondering, as a matter of incident, whether you have done anything about that or what the procedure would be.

MR. WEBSTER. Well, the procedure would be for a preliminary investigation to take place—that is, interviewing of those who were associated with the incident, any obvious forensic evidence that might be available, any photographs that might be taken.

COMMISSIONER RUIZ. Are you assuming that that is being done, or do you know anything about that?

MR. WEBSTER. No, I'm just not able to answer the question with respect to that case. I'm not familiar with it. I'm sorry.

[William Webster, additional statement to U.S. Commission on Civil Rights, Aug. 7, 1979, stated: "A civil rights investigation is being conducted by our Los Angeles field office, the results of which will be forwarded to the Civil Rights Division, Department of Justice." The additional statement is in exhibit 1.]

MR. WEBSTER. I am made aware of major civil rights cases, but you have to understand that last year we had over 3,100 allegations of police brutality out of 9,000 civil rights cases that we investigated. So I don't keep track of them all personally.

CHAIRMAN FLEMMING. Judge Webster, if you find on inquiry that the Bureau is involved, if you'd like to make just a short statement to that effect we will include it in the record at this point.

MR. WEBSTER. Yes, I'll be glad to—

CHAIRMAN FLEMMING. We'll appreciate it very much. Thank you.

COMMISSIONER RUIZ. Now, what I was trying to also develop is this, the resistance of local police departments to have internal review organizations, etc. How soon can the FBI get into that, or can the local police department say, "Lay off, this officer may take the fifth amendment. We don't know what's going to happen; there is a pending item here." Do you have any concurrent jurisdiction?

MR. WEBSTER. Yes, indeed, we do. Now, I thought you were going to ask could we go look in their internal investigative file, and I think the answer to that would be no, because they'd be interviewing their own police officers in an effort to find out what happened, and we'd soon dry up the well if we had access to their internal investigative records.

COMMISSIONER RUIZ. Now, is that a regulation that the concurrent jurisdiction that I'm speaking about is—

MR. WEBSTER. Yes, it's concurrent in the sense that we have jurisdiction under the Civil Rights Act and we proceed under our own statutes, notwithstanding any jurisdiction that they might have.

COMMISSIONER RUIZ. So there is nothing really that keeps the FBI from then going in independently of what locally the police are doing and conducting its own investigation given widespread publicity or some form of a formal complaint.

MR. WEBSTER. That's correct.

COMMISSIONER RUIZ. Now, a researcher reported in 1975 on information on about 1,500 incidents of police homicide which occurred from 1960 through 1970, suggesting that two-fifths of the killings were justifiable, one-fifth questionable, and two-fifths unjustifiable.

Now, with relation to the compiling of statistics, in those cases wherein an incident of police homicide has occurred and the killing has been unjustified, does the FBI have statistics as to unjustifiable homicides by law enforcement authorities in the area of civil rights? Do you keep those statistics?

MR. WEBSTER. No, sir, I don't believe we do. You see, there are a number of factors that go into this particular problem. Pierson against Rays, a Supreme Court decision, holds that a person acting in good faith in the validity of the statute under which he operates has a valid defense in terms of civil liability so that—and I think I'm still on part of the question you're asking me—there are many States in the United States who authorize officers to use deadly force to stop a fleeing suspect. There are many States which do not authorize that or which have a more modern and enlightened approach which would require that the officer reasonably believes himself to be in danger or that others were in danger, or that the person shot at had himself a—

COMMISSIONER RUIZ. But in those cases in those States where you can kill a felon for fleeing, that would be classified as justifiable homicide. In those States where they say you can't kill a person just

because he's fleeing and a misdemeanor has occurred, then that's unjustifiable homicide. Now, do you compile all these statistics on unjustifiable homicides?

MR. WEBSTER. [No immediate response.]

COMMISSIONER RUIZ. You see, what this Commission is seeking is a lot of statistics.

MR. WEBSTER. Right.

COMMISSIONER RUIZ. Because from statistics you can get—

MR. WEBSTER. What I would have to find out, and I don't know the answer to this—I'll supplement the record—is the breakdown on our homicides. We report—we collect homicide information under our uniform crime reporting statistics from State and local authorities. They supply the figures; we don't go out and get them ourselves.

COMMISSIONER RUIZ. Will you at this place in the record, then, see if you can divide that up, and if you—

MR. WEBSTER. I'll see if we can. I really doubt that we do or can, but I will certainly answer the question.

COMMISSIONER RUIZ. Thank you very much.

CHAIRMAN FLEMMING. Commissioner Saltzman.

COMMISSIONER SALTZMAN. I thought Commissioner Ruiz was going to go on in his analysis of studies. There is a record that studies point to over 50 percent of homicides committed by police or citizens killed by police are black. Should that particular figure or statistics alert or should it alert us to a situation that we have to be concerned about?

MR. WEBSTER. Well, I think anytime you have a figure—I don't know where you saw the figure, Commissioner, but anytime you have a figure that is substantially disproportionate to the population representation of that particular group, then you have a statistical abnormality that ought to be explained one way or the other.

I don't have any idea what the explanation might be, nor do I think from those two figures alone you can draw an inference of what one kind or another, but I think if that figure is correct, then it would seem to require some better understanding of why this occurs. If the black population is, say, 12 percent of the country—I'm not sure what it is, but I know it's not 50 percent; I think it's between 12 and 20 percent—it would seem to call for some explanation if one can be drawn. But those two figures alone don't tell me very much.

COMMISSIONER SALTZMAN. Well, my concern or the next step, I would ask, does the FBI have a role in the examination of such a statistic in terms of police misuse of force against the minority population?

MR. WEBSTER. Well, I suppose one of the things that I've been groping around to see the thrust of your questions this afternoon, there is a difference between the one function which we do, which is to collect crime reports and figures, and the other function, which is to operate under Federal law to protect civil rights by investigating violations of a person's civil rights which violates criminal statutes.

The uniform crime reporting system was developed a number of years ago as a kind of index to help State and local law enforcement and Federal law enforcement understand trends, crime trends. And we developed an index and these various classic crimes go into that index.

Kidnapping is not one of those that form the base to the index, but we keep figures on it. Last year Senator Glenn was instrumental in getting an amendment passed which requires us to put arson into that index category. We're in the process of learning more about arson through several studies so that we can have a meaningful index.

The index simply gives us an idea of where we need to be directing more and more attention, both on a national basis and a State and local basis, but it is a service to law enforcement generally that we collect this information, and we collect it from them. It is only as accurate as the people who supply it to us, and it is turned back to them.

So we're really a collecting agency rather than doing anything with that information beyond making it publicly available. We don't have any indication of the specialized kinds that you have requested, nor do we really have the funds to collect it at this time. So it goes beyond, in a sense. It'd be useful to you, but I'm not sure it's our function to gather it. I'm also not sure that it isn't impossible to gather.

If we could confine ourselves to a few very important special study projects, we can't do this for every concern that is expressed, but we might be able, given the right kind of question, the right kind of data, to enlist the support of State and local law enforcement to supply it. There is no statute that obligates them to furnish it. It's all done on a voluntary basis. So it's only as good as the willingness of the other agencies to give it to us.

CHAIRMAN FLEMMING. Mr. Nunez?

MR. NUNEZ. Yes.

Judge Webster, one of the tenets of this Commission is that the work force does impact on the policy and program of any organization, and I was struck by your use of the terms "statistical abnormality," and I was also aware that you are actively recruiting minorities and women. And the question that I would raise to you at the moment would be your progress in this respect and whether you have an affirmative action plan, and if you do, do you have goals and timetables? Three questions in one.

MR. WEBSTER. We do have a plan. I was really expecting you to ask that question with respect to American Indians. So I do carry with me the statistics because they are changing; to keep our effort going, I might be able to remind people when I visit the field offices that this is as important today as it was a year ago.

I think we've made some pretty good strides in affirmative action in the special agent category. We had over 16 percent of our overall support personnel who were in the minority category at one time or another. So really, that was not the problem. The problem was with our special agent category, particularly since these are the people who

have the front line contact with the communities, who deal with the various communities.

We've been stuck particularly with the blacks and Hispanics for 2 or 3 years on the same number. They weren't moving. If we picked up any, we were losing the same number. So we developed, I think, a very effective program given what we have to work with. Now, what I mean by that is that I can hire about 280 people this year. Under our budget next year I'll be able to hire about 125.

So with 8,000 agents, it is physically impossible for me to make dramatic numerical changes. But what I can demonstrate is consistent progress and consistent commitment.

Since February 28 of last year we've gone from 144 blacks to 195, a gain of 51, where for 2 years before there'd been no gain at all. We've gone from 155 Hispanics to 184, a gain of 29.

We've gone from 15 American Indians to 17, and I'll come back to that. That's a gain of two, and I'm not proud of this, but I'm not ashamed of it because at least we're moving forward. That's a gain in excess of attrition. We've gone from 34 Asian Americans to 41, a gain of 7 and we've gone from 94 female special agents to 160, a gain of 66. The last several special agent classes have consisted from anywhere from 45 to 55 percent minorities and female in each of our classes.

Now, with respect to goals and quotas, I hope you won't think that I'm being flip when I say that my approach to that has in mind the *Bakke* case and all the other problems that are unresolved at the present time.

My goal is to provide a representative FBI. We have no quotas. My instructions are that, the field, you keep providing me qualified minority candidates and I'll let them know when we have enough. And that's the way we've been working.

As I say, it's been running between 45 and 55 percent minority and females in our classes. And we're doing it, I might also say for the record, on exactly the same standards that we've always maintained, high standards for the FBI.

The candidates were out there, but we had to learn how to go out and recruit. We have about 4,500 applications pending for special agent category. I told you next year I can take 125, this year 280. Fifteen hundred of those candidates have been screened and evaluated and are fully acceptable for membership in the special agent category, so all we have to do is dip in the pool.

We always take from the top of the pool in the categories. Minorities and females have been my top category and accountants and then lawyers and we follow down the science and language and then our modified program for those with college education or 3 years of executive experience.

So when we say we want some from the minority and female category, it's always picked from the top of the available candidates who are qualified in every other respect, meet minimum standards, and then we pick the best from those categories.

That's the way we've been working. We're still learning. We've had a lot of support from leaders in civil rights, of minority groups, and female groups, equal rights groups, and I appreciate that help. It's been very useful to us. Judges and others who have had direct personal experience in this area have provided useful suggestions. We're trying to follow up on those.

As I said, we could do a lot if we had a lot of openings to deal with with what we have. I think that's a commitment that I'm very proud of because it represents across the board support for me from the field. The field produced these candidates.

CHAIRMAN FLEMMING. Judge Webster, we indicated to you and your associates that this hearing would terminate at 3:00. It is 3 o'clock. We want to be fair to you and your responsibilities.

I have had notes from people as to other questions that they would like to address to you. I'm wondering if we could address a communication to you including those questions, and if you would respond to those in writing so that they can be made a part of the record.

MR. WEBSTER. I'd be very happy to respond.

CHAIRMAN FLEMMING. I know that I speak for my colleagues and for the members of the staff when I express to you our deep appreciation for your willingness to come here and to share with us your view on the issues that have been under discussion.

I think all of us have a far better understanding of your approach to these issues and of the manner in which the issues are being handled, as would have been the case if we had not had the opportunity for this direct contact with you.

Speaking personally, I certainly appreciate your very obvious willingness to consider new ideas as they come along and explore them. I was particularly interested in the dialogue between you and counsel on the question of the possible assumption of additional responsibility by the Bureau of Indian Affairs, by the police departments of the various tribes.

You have reflected a willingness to see some things evolve in a particular direction, provided they can evolve along some lines.

But again, we are very, very grateful to you for meeting with us. We look forward to further contacts.

MR. WEBSTER. Thank you, Mr. Chairman. It was a privilege to be here.

CHAIRMAN FLEMMING. The hearing is adjourned.

27
Exhibit No. 1

OFFICE OF THE DIRECTOR



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

August 7, 1979

Honorable Arthur S. Flemming
Chairman
United States Commission on Civil Rights
1121 Vermont Avenue
Washington, D. C. 20425

Dear Dr. Flemming:

Please refer to your letter dated June 18, 1979, which enclosed an unverified transcript of my testimony before your Commission on May 14, 1979. Attachment I is a corrected copy of the transcript containing my testimony. Your letter set out requests for information and documents which I agreed to furnish, if available. The following are your requests restated with our responses.

I. FBI Activities on Indian Reservations

- A. Statistics for the past 3 years, by Indian reservation or FBI office, of the number and type of referrals for investigation of offenses falling under the Major Crimes Act and disposition.

Attachment II is a survey conducted by our fifteen field divisions which cover Indian country to provide the statistics you requested. We have not covered a 3-year period as you requested as prior to July, 1977, our investigations in Indian country were assigned the same classification number with all other investigations conducted on Government reservations, such as military reservations and national parks. Therefore, those requested statistics prior to July, 1977, are not readily retrievable.

- B. Statistics for the past 3 years, by Indian reservation or FBI office, of the number and type of complaints received regarding the conduct of FBI Agents operating on Indian reservations and the nature of dispositions; the proportion of complaints received from Indian reservations as compared to the total number of complaints received.

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During the period January, 1976, through January, 1979, there have been no complaints received regarding the misconduct of FBI Agents operating in Indian country with the exception of our Albuquerque and Minneapolis Divisions.

A complaint was received by the Albuquerque Division concerning the misconduct of a Special Agent (SA) on official business in Indian country. The complaint alleged that the Agent was attempting to direct a tribal police department in a manner that was embarrassing to the tribal council. It was also stated that the Agent intimidated and harassed the tribal council and religious leaders of the tribe. An internal FBI inquiry was initiated concerning these allegations, and upon conclusion, it was found that these allegations were without merit. There were no other misconduct complaints received against SAs from either Indian country or elsewhere within the Albuquerque Division.

The Minneapolis Division from January, 1976, through January, 1979, has received numerous allegations of SA misconduct while operating in Indian country. Most of these allegations have been nonspecific in nature such as harassment, intimidation, and insensitivity. In addition, SAs have been accused of warrantless searches, illegal surveillances, formation of "goon" or "hit" squads and paramilitary activities while carrying out their normal investigative duties on the numerous Indian reservations within the Minneapolis Division.

Due to the general and nonspecific nature of many of these complaints in that the allegations are not directed against any specific SA(s) or incident(s), it is impossible to specify an exact number of complaints received. However, the Minneapolis Division has experienced a greater number of misconduct allegations against SAs conducting investigations in Indian country than against SAs working in non-Indian country.

Specific allegations concerning SA misconduct have been received within the Minneapolis Division as follows: (1) derogatory statements made concerning the abilities of the tribal authorities; (2) threatening statements made toward various individuals; (3) the unnecessary demonstration and pointing of weapons at various individuals; (4) illegal searches of residences; (5) inducement of a witness to commit perjury; (6) violation of the civil rights of an individual when arrested on a material witness warrant; and (7) fabrication of witnesses' statements. All of these allegations have been the basis of internal inquiries to determine their validity and appropriate personnel action has been taken where warranted.

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For your additional information, on May 18, 1976, the Assistant Attorney General, Criminal Division, Department of Justice, forwarded to the FBI your letter dated May 12, 1976, to the Attorney General concerning allegations of FBI misconduct on the Pine Ridge Indian Reservation, South Dakota. In the above letter, the Department of Justice requested that the FBI provide information concerning the following:

1. A summary of the investigation of the murder of Byron DeSersa;
2. A summary of the investigation of the murder of Anna Mae Aquash;
3. A list of other homicide investigations conducted on the Pine Ridge Reservation since July 1, 1975, and the present status of these investigations;
4. A list of assault and arson investigations conducted on the Pine Ridge Reservation since July 1, 1975, and the present status of these investigations;
5. Any other information which you deem relevant to this inquiry.

On June 18, 1976, the Department of Justice was provided a memorandum which gave them the aforementioned requested information and refuted the allegations of SA misconduct. We have been informed by the Department of Justice that upon review of this matter, they concurred with the FBI and forwarded a letter to you dated July 12, 1976, signed by Richard L. Thornburgh, then Assistant Attorney General.

II. FBI Training Activities in Regard to Indian Law Enforcement

- A. Curriculum and any training materials in regard to Indian law and culture provided to all Agents in basic training at the FBI Academy.

All new FBI Special Agent classes are provided instruction in human relations and in relationships with various racial and ethnic groups, their backgrounds, and on how to better communicate with these groups. Sociological considerations of minority groups such as the American Indian are also discussed. Each new Agent would, of course, receive training on investigative procedures and techniques in handling Crime on a Government Reservation (CGR) and Crime on an Indian Reservation (CIR) violations. For experienced

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Agents, the FBI Academy offers an in-depth course on CGR and CIR violations which deals extensively with the many facets of investigating such violations.

- B. Any manuals or administrative guidelines regarding criminal investigations in Indian country.

The FBI's investigative guidelines with respect to our jurisdiction in Indian country are set out in the FBI Manual of Investigative Operations and Guidelines, Volume II, Part 1, Section 198, pages 943-951, noting that page 946 does not exist. Attachment III is a copy of these guidelines.

- C. Brief description of training programs provided by the FBI to BIA or tribal police in the last 3 years.

Title 42, USC, Section 3701, better known as the Crime Control Act of 1973, is the authority by which the FBI makes training assistance available to local agencies. Section 404 of this law authorizes the Director of the FBI to provide training assistance to criminal justice agencies upon request. As a result, the FBI does not initiate, sponsor or administer training programs at the field level. We respond to requests for training assistance which includes providing instructors, assistance in curriculum planning, and providing instructional aids and training materials. To the best of my knowledge, the FBI has not denied any legitimate request for FBI training assistance from the Bureau of Indian Affairs (BIA) or tribal police departments.

Between January 1, 1978, and April 25, 1979, the FBI has provided instructional support in 30 Indian police schools sponsored by BIA or tribal police departments, consisting of 507 hours of instruction to 846 officers throughout the country. These figures do not include schools sponsored by local, county, or state agencies wherein BIA or tribal police may have been in attendance. In view of the fact that these schools are administered by local agencies, the FBI does not maintain records of individual attendees or departments attending the training classes. Our records contain only the total number of students in each class taught by FBI personnel.

In addition, in 1973 an agreement was reached with BIA that one space in each session, four times a year, would be made available to BIA for an individual to attend the FBI National Academy at Quantico, Virginia. Since that time, there have been 21 BIA officers who have graduated. BIA has elected not to send an individual to three sessions.

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- D. Your thoughts on how FBI training resources could be used to improve the quality of law enforcement in Indian country.

Information available to me indicates that before training for BIA and tribal police officers can have a measurable impact, several other problems must be solved. For example, it was recently noted that a BIA bus driver and a school janitor received higher pay than a BIA uniformed policeman. Tribal police are even lower paid than BIA and they do not enjoy any of the fringe benefits such as insurance, retirement, promotions, or overtime that are provided BIA personnel. The above, coupled with a lack of job security, lack of standards for employment, poor or non-existent equipment, and shortage of quality leadership, causes extreme turnover rates. Mr. Eugene F. Suarez, Chief, Division of Judicial Prevention and Services, BIA, Department of the Interior, has stated that the turnover rate of tribal police approaches 75% a year. In addition, he has stated that approximately 75% of tribal police officers do not have a high school education.

With the high turnover rate, lack of educational requirements, and low salaries, it is logical to conclude that before improved training can be provided, these other problems must be solved. Until such time as tribal police can provide adequate standards for employment, adequate salary structure, better equipment and working conditions, improved supervision and management, and reduce the turnover rate to an acceptable level, expanded training assistance will not be of much value to the departments or cost effective to the Federal Government.

BIA has in operation a centralized police training facility at Brigham City, Utah. The Law Enforcement Assistance Administration supports this facility through grants, and the FBI actively participates in providing training. BIA contracts with various tribes stipulate that a member of each tribe attend the training program. Mr. Suarez has advised in the past that attendance at the Indian Police Academy has been poor due to "cultural shock" suffered by attendees. When removed from their tribal environment, attendees have trouble adjusting. It is not uncommon to have attendees leave the Academy on the first or second day to return to their reservations. The Consolidated Federal Law Enforcement Training Center has had similar experiences with tribal police officers.

The FBI is ready and willing to provide whatever training assistance is requested within budgetary limitations and manpower availability; however, it is believed that the other critical problems must be addressed before training can be effective.

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III. Questions Raised in Regard to FBI Conduct in Response to Activity on the Pine Ridge Reservation

- A. The Federal judge who dismissed the charges arising out of the 1973 occupation of Wounded Knee because of governmental misconduct relied, in part, on the FBI's development of a perjurious witness (Louis Moves Camp) and apparent deception of the court in regard to the FBI's intervention on Moves Camp's behalf with Wisconsin state authorities when he was a suspect in a rape case (374 F. Supp. 389, 393-95 (1974)). The judge, in dismissing the case, also noted earlier "FBI negligence or dilatoriness" in complying with the court's discovery orders (383 F. Supp. at 393). Following Judge Nichol's decision, what if any inquiry or action was taken within the FBI regarding these allegations; what were the findings and disposition?

In United States v. Banks, United States v. Means, 383 F. Supp 389 (1974) (USDC South Dakota) the Court by opinion dated October 9, 1974, treated a motion for judgement of acquittal as a motion to dismiss for Government misconduct which included the following: (1) Conspiracy to suborn perjury and to cover up subornation in the case of a prosecution witness; (2) suppression of an FBI statement exposing perjury of a prosecution witness; (3) illegal and unconstitutional use of military personnel and material at Wounded Knee and the Government's effort to cover up said use; (4) violation of applicable professional, ethical and moral standards; and (5) various other incidents of governmental misconduct. The Court granted the motion.

An immediate FBI internal inquiry was initiated to review and determine the facts pertaining to the allegations of misconduct by FBI personnel. For your information, immediately following the dismissal of the charges against Means and Banks, a meeting was held among the Attorney General and representatives of the FBI and the Criminal Division, Department of Justice. The Attorney General instructed that both the FBI and the Criminal Division conduct internal inquiries into the allegations of misconduct concerning the prosecutor's office and the FBI, respectively. On September 17, 1974, the Special Agent in Charge (SAC) of the Minneapolis Division, who had the Banks and Means investigation under his supervision, was instructed to conduct an inquiry into every allegation of FBI misconduct that was brought out during the Means and Banks court

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proceedings, and this inquiry was to include explanations and recommendations as to corrective action to be taken. In addition, the General Investigative Division (now known as the Criminal Investigative Division) at FBI Headquarters was instructed that upon receipt of the inquiry from the SAC, Minneapolis Division, it should be reviewed and the General Investigative Division was to provide their independent recommendations.

By letter dated September 22, 1974, the Minneapolis Division forwarded their review of the allegations and refuted all allegations, generally stating that on the part of FBI personnel there was no misconduct, intentional falsification of records, or any dishonesty. Subsequently, the General Investigative Division, upon review of the allegations, concurred with the findings of the SAC, Minneapolis.

On October 9, 1974, the Assistant Attorney General, Criminal Division, Department of Justice, was provided the review of all allegations by the SAC, Minneapolis Division and the General Investigative Division.

On October 15, 1974, upon review of the allegations, the Department of Justice decided it would appeal the dismissal of the charges against Banks and Means, and on October 16, 1974, the United States Attorney, South Dakota, filed notice of appeal to the United States Court of Appeals for the Eighth Circuit.

On December 18, 1974, a United States Government brief was filed which addresses and refutes each allegation of Government misconduct which was set out in the dismissal order.

Subsequently, this matter was argued before the U. S. Court of Appeals for the Eighth Circuit on March 11, 1975, wherein the U. S. Government contended that Means and Banks should be retried on felony charges for their part in the 1973 siege - occupation of Wounded Knee, South Dakota.

The defense contended that a retrial would constitute double jeopardy and that the dismissal of the charges by the lower court was not an appealable issue. The U. S. Government contended that the dismissal did not constitute an acquittal.

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On April 16, 1975, the U. S. Court of Appeals for the Eighth Circuit denied the Government's appeal stating that the dismissal by Judge Nichol terminated the trial in defendants' favor after jeopardy had attached, thus effectively barring the U. S. Government appeal under the double jeopardy clause.

- B. In oral argument in the U. S. Court of Appeals for the Eighth Circuit in the case of United States v. Leonard Peltier (No. 77-1487), the United States Attorney admitted that affidavits of one Myrtle Poor Bear submitted to Canada in support of the United States' request for Peltier's extradition were contradictory with one another and were in fact false in that she was not present at the events she claimed to have observed. What if any inquiry or action was taken within the FBI following these admissions in regard to development of the witness and affiant Myrtle Poor Bear; what were the findings and disposition?

There was no FBI internal inquiry with respect to the above.

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 February 19, 1976, 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 February 23, 1976, 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 March 31, 1976, 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. 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.

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C. Persistent questions regarding the investigation of the 1976 homicide of Anna Mae Aquash on the Pine Ridge Reservation continue to be raised and cloud public confidence in the role of Federal law enforcement in Indian country. The Commission seeks the following specific information, all of which would seem to be undisputed matters of record which would not be affected or altered by disclosure at this time. We are not requesting information about potential witnesses or informants, nor the identity of any suspects.

a. Names of all personnel of the Federal Bureau of Investigation who responded to the scene where the unidentified woman was found on February 24, 1976, or were present at the Pine Ridge Indian Health Service Hospital on that day or the following day contemporaneous with the first autopsy of the body.

SA Donald A. Dealing was the only FBI Agent who responded to the scene when the body of Anna Mae Aquash was found on the Pine Ridge Indian Reservation (PRIR), South Dakota, on February 24, 1976.

SA Dealing, SA William B. Wood and SA David F. Price viewed the body at the Public Health Service Hospital, Pine Ridge, South Dakota, prior to the first autopsy, and SA John Robert Munis viewed the body following this autopsy.

b. Brief description of the nature of any contact any of these Agents may have had with Anna Mae Aquash prior to the discovery of her body.

SA Price interviewed Aquash in the early spring of 1975 in connection with an official FBI investigation. In September, 1975, SA Price arrested Aquash on the Rosebud Indian Reservation in connection with an official FBI investigation. SA Wood briefly observed Aquash during this same period of time also on the Rosebud Reservation.

c. Access to the photographs taken of the body of Anna Mae Aquash at the time of the first autopsy.

Attachment IV is six photographs taken of the body of Anna Mae Aquash prior to the first autopsy.

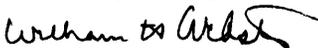
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- d. Description of the complete chain of custody of the hands severed from the body of Anna Mae Aquash, from the time they were removed from the body to the time they were delivered to Dr. Garry Peterson at the time of the second autopsy. What person or persons were involved in the decision to sever the hands from the body? Access to all transmittal documents, documents requesting fingerprint examination by the FBI Laboratory, and documents from the Laboratory regarding their examination and findings.

SA Munis received the hands of Aquash at the time of the first autopsy from Dr. W. O. Brown, Pathologist, Scottsbluff, Nebraska. SA Munis maintained control of these hands and forwarded them to the FBI Identification Division, Washington, D. C. The hands were subsequently delivered to Dr. Garry Peterson at the PRIR by SA Wood after they had been returned by the FBI Identification Division. SA Thomas H. Greene made the decision to have Dr. Brown sever the hands of Aquash for identification purposes due to the decomposed state of the body. Attachment V is copies of the documents pertaining to the transmittal and identification of Aquash's fingerprints from her hands.

I hope this information is beneficial to you and your staff. If we can be of any further assistance to you or your staff, please contact us.

Sincerely yours,



William H. Webster
Director

Enclosures - 5

Attachment I to this exhibit is on file at the Commission on Civil Rights. The corrections noted in the attachment have been incorporated into the published transcript.

ATTACHMENT II
SURVEY CONDUCTED BY OUR FIFTEEN FIELD DIVISIONS
WHICH COVER INDIAN COUNTRY TO PROVIDE THE
STATISTICS YOU REQUESTED.

*Several of the more prevalent reasons for declinations provided by the U. S. Attorneys are as follows:

1. Lack of evidence to prosecute
2. Lack of Federal prosecutive merit
3. Referred to tribal authorities
4. Referred to local authorities

ALBUQUERQUE FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	*TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	44	10	1	33	45	18	1	15	11
2. Manslaughter	65	15	0	50	53	6	2	33	12
3. Kidnaping	5	0	0	5	12	0	0	5	7
4. Rape	46	4	1	41	75	25	1	25	24
5. Carnal Knowledge	11	0	0	11	11	1	1	9	0
6. Assault with Intent to Commit Rape	5	0	0	5	5	1	0	4	0
7. Incest	1	0	0	1	1	1	0	0	0
8. Assault with Intent to Commit Murder	2	0	0	2	2	0	0	1	1
9. Assault with Dangerous Weapon	74	6	3	65	100	7	0	64	29
10. Assault Resulting in Serious Bodily Injury	104	4	4	96	137	30	2	61	44
11. Arson	9	5	0	4	7	2	0	5	0
12. Burglary	65	27	1	37	63	5	0	47	11
13. Robbery	11	6	0	5	7	2	0	3	2
14. Larceny	102	40	0	62	97	11	0	54	32

ANCHORAGE FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	*TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder									
2. Manslaughter									No offenses reported or known within Alaska Indian Reservations
3. Kidnaping									
4. Rape									
5. Carnal Knowledge									
6. Assault with Intent to Commit Rape									
7. Incest									
8. Assault with Intent to Commit Murder									
9. Assault with Dangerous Weapon									
10. Assault Resulting in Serious Bodily Injury									
11. Arson									
12. Burglary									
13. Robbery									
14. Larceny									

BUTTE FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	* TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	26	8	0	18	33	13	1	0	19
2. Manslaughter	30	6	0	24	35	13	0	11	11
3. Kidnaping	4	0	0	4	5	0	0	4	1
4. Rape	44	7	0	37	80	18	2	17	43
5. Carnal Knowledge	1	0	0	1	1	0	0	1	0
6. Assault with Intent to Commit Rape	9	1	0	8	11	0	0	8	3
7. Incest	1	0	0	1	1	0	0	1	0
8. Assault with Intent to Commit Murder	3	0	0	3	3	3	0	0	0
9. Assault with Dangerous Weapon	141	15	2	124	191	18	1	107	65
10. Assault Resulting in Serious Bodily Injury	41	3	1	37	56	7	6	25	18
11. Arson	14	7	0	7	15	0	0	7	8
12. Burglary	376	225	2	149	287	65	1	192	29
13. Robbery	11	4	1	6	23	0	1	6	16
14. Larceny	257	122	3	132	227	35	0	160	32

DENVER FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	*TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	4	0	0	4	4	0	0	4	0
2. Manslaughter	0	0	0	0	0	0	0	0	0
3. Kidnaping	1	0	0	1	1	0	0	1	0
4. Rape	8	0	0	8	11	0	0	8	3
5. Carnal Knowledge	0	0	0	0	0	0	0	0	0
6. Assault with Intent to Commit Rape	1	0	0	1	1	0	0	1	0
7. Incest	0	0	0	0	0	0	0	0	0
8. Assault with Intent to Commit Murder	0	0	0	0	0	0	0	0	0
9. Assault with Dangerous Weapon	25	4	0	21	27	6	1	14	6
10. Assault Resulting in Serious Bodily Injury	5	1	0	4	4	3	0	1	0
11. Arson	1	0	0	1	1	1	0	0	0
12. Burglary	28	16	0	12	24	3	0	17	4
13. Robbery	0	0	0	0	0	0	0	0	0
14. Larceny	37	20	0	17	26	4	0	20	2

JACKSON FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	*TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	0	0	0	0	0	0	0	0	0
2. Manslaughter	0	0	0	0	0	0	0	0	0
3. Kidnaping	0	0	0	0	0	0	0	0	0
4. Rape	0	0	0	0	0	0	0	0	0
5. Carnal Knowledge	0	0	0	0	0	0	0	0	0
6. Assault with Intent to Commit Rape	0	0	0	0	0	0	0	0	0
7. Incest	0	0	0	0	0	0	0	0	0
8. Assault with Intent to Commit Murder	1	0	0	1	2	0	0	1	1
9. Assault with Dangerous Weapon	4	0	0	4	5	0	0	4	1
10. Assault Resulting in Serious Bodily Injury	2	1	0	1	1	0	0	1	0
11. Arson	0	0	0	0	0	0	0	0	0
12. Burglary	1	0	0	1	5	0	0	1	4
13. Robbery	0	0	0	0	0	0	0	0	0
14. Larceny	0	0	0	0	0	0	0	0	0

KANSAS CITY FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	*TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	1	0	0	1	1	1	0	0	0
2. Manslaughter	0	0	0	0	0	0	0	0	0
3. Kidnaping	0	0	0	0	0	0	0	0	0
4. Rape	0	0	0	0	0	0	0	0	0
5. Carnal Knowledge	0	0	0	0	0	0	0	0	0
6. Assault with Intent to Commit Rape	0	0	0	0	0	0	0	0	0
7. Incest	0	0	0	0	0	0	0	0	0
8. Assault with Intent to Commit Murder	0	0	0	0	0	0	0	0	0
9. Assault with Dangerous Weapon	2	0	0	2	2	1	0	1	0
10. Assault Resulting in Serious Bodily Injury	0	0	0	0	0	0	0	0	0
11. Arson	0	0	0	0	0	0	0	0	0
12. Burglary	0	0	0	0	0	0	0	0	0
13. Robbery	0	0	0	0	0	0	0	0	0
14. Larceny	0	0	0	0	0	0	0	0	0

LAS VEGAS FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	*TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	2	0	0	2	2	2	0	0	0
2. Manslaughter	0	0	0	0	0	0	0	0	0
3. Kidnaping	0	0	0	0	0	0	0	0	0
4. Rape	3	1	0	2	3	1	0	2	0
5. Carnal Knowledge	0	0	0	0	0	0	0	0	0
6. Assault with Intent to Commit Rape	1	0	0	1	1	0	0	1	0
7. Incest	0	0	0	0	0	0	0	0	0
8. Assault with Intent to Commit Murder	1	0	0	1	1	0	0	1	0
9. Assault with Dangerous Weapon	9	2	0	7	7	2	0	5	0
10. Assault Resulting in Serious Bodily Injury	4	1	0	3	4	1	0	2	1
11. Arson	2	2	0	0	0	0	0	0	0
12. Burglary	13	7	0	6	7	1	0	5	1
13. Robbery	0	0	0	0	0	0	0	0	0
14. Larceny	0	0	0	0	0	0	0	0	0

MILWAUKEE FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	*TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	2	1	0	1	2	1	0	1	0
2. Manslaughter	3	0	0	3	3	0	0	1	2
3. Kidnaping	2	0	1	1	6	0	0	2	4
4. Rape	1	0	0	1	2	0	0	1	1
5. Carnal Knowledge	1	0	0	1	1	0	0	0	1
6. Assault with Intent to Commit Rape	0	0	0	0	0	0	0	0	0
7. Incest	0	0	0	0	0	0	0	0	0
8. Assault with Intent to Commit Murder	0	0	0	0	0	0	0	0	0
9. Assault with Dangerous Weapon	4	1	0	3	5	0	1	3	1
10. Assault Resulting in Serious Bodily Injury	12	2	1	9	15	3	0	8	4
11. Arson	7	7	0	0	0	0	0	0	0
12. Burglary	5	2	0	3	7	1	1	3	2
13. Robbery	2	0	0	2	1	1	0	0	0
14. Larceny	1	1	0	0	0	0	0	0	0

MINNEAPOLIS FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	*TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	32	12	0	20	21	8	1	4	8
2. Manslaughter	17	2	0	15	14	5	0	5	4
3. Kidnaping	6	1	0	5	14	1	0	5	8
4. Rape	40	5	0	35	46	5	0	19	22
5. Carnal Knowledge	14	4	0	10	9	4	0	5	0
6. Assault with Intent to Commit Rape	4	1	0	3	5	1	0	1	3
7. Incest	5	0	0	5	10	1	1	1	7
8. Assault with Intent to Commit Murder	3	0	0	3	4	3	0	1	0
9. Assault with Dangerous Weapon	277	48	4	225	299	28	4	164	103
10. Assault Resulting in Serious Bodily Injury	71	4	0	67	125	13	3	40	69
11. Arson	20	9	1	10	16	5	0	9	2
12. Burglary	221	140	1	80	160	29	2	115	14
13. Robbery	5	0	0	5	6	2	0	2	2
14. Larceny	150	76	0	74	107	11	0	82	14

OKLAHOMA CITY FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	* TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	1	0	0	1	1	0	0	0	1
2. Manslaughter	1	0	0	1	1	1	0	0	0
3. Kidnaping	0	0	0	0	0	0	0	0	0
4. Rape	0	0	0	0	0	0	0	0	0
5. Carnal Knowledge	0	0	0	0	0	0	0	0	0
6. Assault with Intent to Commit Rape	0	0	0	0	0	0	0	0	0
7. Incest	1	0	0	1	1	0	0	0	1
8. Assault with Intent to Commit Murder	1	0	0	1	1	1	0	0	0
9. Assault with Dangerous Weapon	4	1	0	3	3	0	0	3	0
10. Assault Resulting in Serious Bodily Injury	0	0	0	0	0	0	0	0	0
11. Arson	3	0	0	3	3	0	0	3	0
12. Burglary	3	1	0	2	3	0	0	2	1
13. Robbery	0	0	0	0	0	0	0	0	0
14. Larceny	22	9	2	11	14	3	0	11	0

OMAHA FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	* TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	1	0	0	1	1	1	0	0	0
2. Manslaughter	0	0	0	0	0	0	0	0	0
3. Kidnaping	0	0	0	0	0	0	0	0	0
4. Rape	0	0	0	0	0	0	0	0	0
5. Carnal Knowledge	0	0	0	0	0	0	0	0	0
6. Assault with Intent to Commit Rape	3	0	0	3	3	0	0	2	1
7. Incest	0	0	0	0	0	0	0	0	0
8. Assault with Intent to Commit Murder	0	0	0	0	0	0	0	0	0
9. Assault with Dangerous Weapon	5	0	0	5	5	1	0	4	0
10. Assault Resulting in Serious Bodily Injury	3	0	0	3	3	1	0	2	0
11. Arson	0	0	0	0	0	0	0	0	0
12. Burglary	9	2	0	7	12	3	0	7	2
13. Robbery	0	0	0	0	0	0	0	0	0
14. Larceny	0	0	0	0	0	0	0	0	0

PHOENIX FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	*TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	48	18	0	30	34	21	0	13	0
2. Manslaughter	80	12	0	68	72	25	1	24	22
3. Kidnaping	5	2	0	3	7	0	0	4	3
4. Rape	38	3	3	32	61	18	3	19	21
5. Carnal Knowledge	9	0	0	9	9	4	2	3	0
6. Assault with Intent to Commit Rape	10	1	1	8	13	3	0	6	4
7. Incest	2	0	0	2	2	0	0	2	0
8. Assault with Intent to Commit Murder	7	1	0	6	6	2	0	2	2
9. Assault with Dangerous Weapon	94	9	4	81	96	24	0	43	29
10. Assault Resulting in Serious Bodily Injury	108	16	2	90	145	28	0	59	58
11. Arson	16	10	0	6	8	2	0	3	3
12. Burglary	30	12	0	18	31	6	0	17	8
13. Robbery	12	5	1	6	17	1	0	6	10
14. Larceny	93	26	1	66	107	9	0	61	37

PORTLAND FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	*TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	7	1	0	6	6	4	0	0	2
2. Manslaughter	0	0	0	0	0	0	0	0	0
3. Kidnaping	0	0	0	0	0	0	0	0	0
4. Rape.	2	0	0	2	2	0	0	2	0
5. Carnal Knowledge	0	0	0	0	0	0	0	0	0
6. Assault with Intent to Commit Rape	0	0	0	0	0	0	0	0	0
7. Incest	0	0	0	0	0	0	0	0	0
8. Assault with Intent to Commit Murder	5	2	0	3	3	0	0	1	2
9. Assault with Dangerous Weapon	3	0	0	3	3	1	0	1	1
10. Assault Resulting in Serious Bodily Injury	3	1	0	2	2	0	0	2	0
11. Arson	3	2	0	1	1	0	0	1	0
12. Burglary	58	40	0	18	29	10	0	6	13
13. Robbery	13	12	0	1	1	0	0	1	0
14. Larceny	62	48	0	14	16	2	0	8	6

SALT LAKE CITY FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	* TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	0	0	0	0	0	0	0	0	0
2. Manslaughter	5	0	0	5	5	3	0	0	2
3. Kidnaping	0	0	0	0	0	0	0	0	0
4. Rape	2	0	0	2	2	0	0	2	0
5. Carnal Knowledge	0	0	0	0	0	0	0	0	0
6. Assault with Intent to Commit Rape	0	0	0	0	0	0	0	0	0
7. Incest	2	0	0	2	2	2	0	0	0
8. Assault with Intent to Commit Murder	0	0	0	0	0	0	0	0	0
9. Assault with Dangerous Weapon	8	0	0	8	8	5	1	2	0
10. Assault Resulting in Serious Bodily Injury	6	0	0	6	6	0	0	5	1
11. Arson	2	0	0	2	5	0	0	2	3
12. Burglary	4	2	0	2	3	0	0	1	2
13. Robbery	0	0	0	0	0	0	0	0	0
14. Larceny	4	2	0	2	3	0	0	2	1

SEATTLE FIELD DIVISION - ORIGIN CASES (198)
7/1/77 - 5/1/79

MAJOR CRIMES UNDER TITLE 18, USC, SECTION 1153	# CASES	# CASES WHICH NO SUBJECT(S) IDENTIFIED	# CASES WHICH SOME SUBJECTS IDENTIFIED	# CASES WHICH ALL SUBJECTS IDENTIFIED	TOTAL # SUBJECTS	TOTAL # CONVICT.	TOTAL # ACQUIT.	*TOTAL # USA DECLIN.	# SUBJECTS UNDER INVESTIGATION OR AWAITING COURT ACTION
1. Murder	9	6	0	3	3	1	0	2	0
2. Manslaughter	4	0	0	4	4	0	1	0	3
3. Kidnaping	1	0	0	1	1	0	0	0	1
4. Rape	12	2	0	10	10	2	0	2	6
5. Carnal Knowledge	2	0	1	1	2	1	0	1	0
6. Assault with Intent to Commit Rape	2	1	0	1	2	0	0	1	1
7. Incest	0	0	0	0	0	0	0	0	0
8. Assault with Intent to Commit Murder	2	2	0	0	0	0	0	0	0
9. Assault with Dangerous Weapon	16	3	0	13	16	7	1	8	0
10. Assault Resulting in Serious Bodily Injury	8	0	1	7	11	1	0	4	6
11. Arson	1	0	0	1	2	0	0	0	2
12. Burglary	24	11	0	13	26	4	0	7	15
13. Robbery	2	1	0	1	1	0	0	0	1
14. Larceny	39	26	1	12	21	1	0	4	16

ATTACHMENT III

THE FBI'S INVESTIGATIVE GUIDELINES WITH RESPECT
TO OUR JURISDICTION IN INDIAN COUNTRY.

PART 1

SECTION 198. CRIMES ON INDIAN RESERVATIONS, ET AL

198-1 STATUTE

Title 18, USC, Sections 1151, 1152, and 1153.

198-1.1 Section 1151. Indian Country Defined

Title 18, USC, Section 1151, defines the term "Indian Country" as used in Title 18, USC, Chapter 53, pertaining to Indians as:

"(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation,

(b) all dependent Indian communities within the border of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state,

(c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same."

198-1.2 Section 1152. Laws Governing

"Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.

This section shall not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively."

198-1.3 Section 1153. Offenses Committed Within Indian Country

"Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnaping, rape, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, arson, burglary, robbery, and larceny within the Indian country, shall be subject to the same laws and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

"As used in this section, the offenses of burglary and incest shall be defined and punished in accordance with the laws of the state in which such offense was committed as are in force at the time of such offense.

"In addition to the offenses of burglary and incest, any of the above offenses which are not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined

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SECTION 198. CRIMES ON INDIAN RESERVATIONS, ET AL

and punished in accordance with the laws of the state in which such offense was committed as are in force at the time of such offense."

198-1.4 Jurisdiction

FBI has exclusive jurisdiction over offenses listed in Title 18, USC, Section 1153, within the Indian country as defined in Title 18, USC, Section 1151.

198-1.5 Policy

By virtue of the fact that the FBI is charged with the duty of investigating violations of all Federal statutes not specifically assigned by Congress to any other Government agency, it is duty bound to investigate the violations specified in this section when they occur in Indian country with the exception of violations relating to the liquor and narcotic laws, the Department of the Interior being specifically authorized by congressional enactments to investigate the latter offenses.

The special officers, deputy special officers, and Indian police of the Bureau of Indian Affairs, Department of the Interior, and/or tribal police have the duty of maintaining order in Indian country in addition to handling liquor and narcotic violations. Agents of the FBI are to maintain cooperative contact with these representatives since they are in a position to report to the FBI offices immediately following their occurrence offenses committed in Indian country to which they are assigned. Bear in mind, however, that theirs is an assisting function; and since the FBI is primarily charged with investigating the more serious type of offenses in Indian country, it is the duty of the law enforcement officers of the Department of the Interior to refer such cases to the attention of the FBI representatives.

CIR cases are to be promptly and thoroughly investigated and each case is to be presented to the USA's Office for prosecutive opinion in a completely impartial and factual manner. Thereafter, when USAs or AUSAs decline prosecution against Indian subjects in CIR cases, the chief law enforcement officer of the tribe where the crime occurred is to be orally advised immediately of this declination. A letter to the USA confirming this declination is to be forwarded to him within seven days after the declination with a copy designated for the Bureau of Indian Affairs Reservation Superintendent responsible for the reservation where the offense occurred as well as the Bureau of Indian Affairs Special Officers there, in the event one is assigned to that reservation. No copy, however, is to be directed to the tribal authorities. The confirmation letter to the USA is to contain the identity of the chief law enforcement officer of the tribe that was advised of the declination by the USA, as well as the date he was advised.

198-1.6 Venue

Title 18, USC, Section 3242. (Indians committing certain offenses; acts in Indian country.)

"All Indians committing any offense listed in the first paragraph of and punishable under Section 1153 (relating to offenses committed within Indian country) of this title shall be tried in the

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SECTION 198. CRIMES ON INDIAN RESERVATIONS, ET AL

same courts and in the same manner as are all other persons committing such offense within the exclusive jurisdiction of the United States."

198-1.7 Investigative Procedure

The original information obtained in such cases is generally supplied by Indian officers assigned to the particular Indian country. They should be contacted for all preliminary details relative to the case at the time an Agent of the FBI arrives at the scene of the crime. In many cases it will be found that some preliminary inquiry has been conducted by these officers and the information acquired thereby may prove extremely helpful to the FBI's investigation. However, Indian officers should be encouraged to report the incidence of crimes occurring on their particular reservations to an FBI representative at the earliest possible moment after it has happened and they should be discouraged from attempting to conduct a complete investigation in these cases before notifying the FBI's office.

In many instances it may be necessary to use interpreters in conducting interviews. In such instances when signed statements are taken by this means, care should be exercised in using the exact phraseology of the interpreter and not the Agent's own wording.

Fingerprints and descriptions of subjects should be obtained by the investigating Agent, and it is particularly important that every item of evidentiary value which is susceptible to laboratory examination be obtained and forwarded to FBIHQ. Evidence, such as weapons, items of clothing, blood specimens, fingernail scrapings, and footprints, is usually available at the scene of crimes of violence and should be secured at the first opportunity and preserved for subsequent transmittal to the FBI Laboratory. Accurate measurements should be made of the sites of the crime and sketches and photographs of the scene should be obtained.

Agency representatives can usually supply all necessary information relative to the boundaries of the Indian country and the registration of Indians involved in the specific case. It is essential in the conduct of such investigations that the nature of the Indians and their local customs be constantly borne in mind. All statements made by them should be very carefully checked. Likewise, in taking statements from Indians, it is desirable that phraseology be used which the subject can understand. In any instance in which an offense is reported to the FBI as having allegedly occurred in Indian country and a doubt exists as to whether the offense is within the jurisdiction of the Federal Government, the facts of the case should be discussed with the USA before any extensive investigation is conducted.

Very frequently crimes in the Indian country involve homicides; therefore, Agents handling this investigation should be thoroughly familiar with the procedure in arranging for autopsies. Valuable evidence may be discovered or possibly destroyed during an autopsy examination. If at all possible a Special Agent completely familiar with the circumstances surrounding the homicide should be present during the autopsy to provide pertinent facts to the coroner or pathologist.

198-1.8 Character

Crime on Indian Reservation followed by a description of the offense; as, Crime on Indian Reservation - Murder.

PART 1

SECTION 198. OTHER CRIMES INVOLVING INDIANS, ET AL

198-2 STATUTES

Title 18, USC, Sections 1163, 1164, 1165, Title 25, USC, Section 202.

198-2.1 Title 25, Section 202. Inducing Conveyances by Indians of Trust Interests in Lands198-2.2 Elements

(1) That some person induced an Indian to execute a contract, deed, mortgage, or another instrument purporting to convey any land or any interest therein.

(2) That the land in question was being held in trust by the Federal Government for the Indian who was induced to execute such an instrument; or

(3) After inducing an Indian to execute such an instrument, some person offered it for record in the office of any recorder of deeds.

198-2.3 Jurisdiction

This violation is different from other violations involving Indians which are investigated by the FBI in that it is not necessary that this violation occur on an Indian reservation. The statute can be violated by any person in any judicial district as long as it involved inducing an Indian to execute an instrument purporting to convey an interest in land held in trust for the Indian by the Federal Government. A second violation provided for in the statute concerns the offering for record of any such instrument purporting to convey an interest in land held in trust for an Indian.

The basis for jurisdiction of the Federal Government over violations of this statute is the status of Indians as wards of the Government and the status of the land as property held in trust by the Government.

198-2.4 Penalty

Any person violating this provision shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding \$500 for the first offense, and if convicted for a second offense may be punished by a fine not exceeding \$500 or imprisonment not exceeding one year, or by other such fine and imprisonment, in the discretion of the court. This section shall not apply to any lease or other contract authorized by law to be made.

198-2.5 Investigative Procedure

The status of the Indian can be determined from records available at the reservation as is done in other violations involving Indians. The status of the land as being trust land can be determined from Bureau of Indian Affairs records or through the Department of the Interior. The Indian who has been induced to execute an instrument purporting to convey the land should be thoroughly interviewed at the start of the investigation as in other Indian cases. It may be necessary to use the services of an interpreter in questioning the Indian. It is desirable to obtain a signed

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statement from the Indian as to all of the facts surrounding his inducement to sign the instrument, the payment of money and related facts.

Although violations of this statute may be called to your attention by the USA in many instances, complaints of violations may come from any source. The USA should be consulted as soon as the essential facts are developed to determine whether prosecution will be authorized.

198-2.6 Character

Inducing Conveyance of Indian Trust Land

198-2.7 Section 1163. Embezzlement and Theft of Property of Indian Tribal Organizations198-2.8 Elements

(1) The accused embezzles, steals, knowingly converts to his use or the use of another, willfully misapplies, or willfully permits to be misapplied

(2) Moneys, funds, credits, goods, assets, or other property belonging to any Indian tribal organization or entrusted to the custody or care of any officer, employee, or agent of an Indian tribal organization; or

(3) The accused knowing any such moneys, funds, credits, goods, assets, or other property to have been so embezzled, stolen, converted, misapplied, or permitted to be misapplied, receives, conceals, or retains the same with intent to convert it to his use or the use of another.

198-2.9 Jurisdiction

This violation is also different from other violations involving Indians which are investigated by the Bureau in that it is not necessary that the violation occur on an Indian reservation. The statute can be violated by any person in any judicial district so long as it involves the theft, embezzlement, etc., of the funds of an Indian tribal organization.

198-2.10 Penalty

(1) A fine of not more than \$5,000 or imprisonment for not more than five years, or both.

(2) If the value of the property does not exceed the sum of \$100, a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

198-2.11 Investigative Procedure

In view of the definition of an Indian tribal organization, as defined in this section, it is necessary that funds, assets, etc., which have been embezzled or stolen be actually the funds of such an organization.

If the theft or embezzlement is committed by an officer, employee, or agency of an Indian tribal organization, proof of such affiliation should be obtained.

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Agents qualified to conduct accounting investigations should be assigned to investigate violations of this section when audits or analyses of the books and records of a tribal organization are necessary.

Each alleged irregularity must be investigated separately and in detail. In instances in which a subject admits irregularities in a signed statement, sufficient investigation must be conducted to substantiate the irregularities independent of the signed statement.

198-2.12 Character

Embezzlement or Theft of Indian Property

198-2.13 Section 1164. Destruction of Boundary and Warning Signs on Indian Reservation198-2.14 Elements

- (1) The accused willfully destroys, defaces or removes any sign erected by an Indian tribe or a Government agency
- (2) To indicate the boundary of an Indian reservation or any Indian country or
- (3) To give notice that hunting, fishing, or trapping is not permitted thereon without lawful authority or permission

198-2.15 Penalty

A fine of not more than \$250 or imprisonment of not more than six months, or both.

198-2.16 Investigative Procedure and Jurisdiction

Violations of this statute may usually be termed petty offenses constituting policing problems within the investigative jurisdiction of the Bureau of Indian Affairs, Department of the Interior. However, the Bureau of Indian Affairs, Department of the Interior, maintains no investigative facilities or personnel in the States of Alaska, California, Florida, Nebraska, and Wisconsin which have assumed jurisdiction over Indian reservations pursuant to Public Law 280, 83rd Congress. All complaints received by field offices covering these states are to be investigated.

All other field offices, upon receipt of complaints regarding violations of this statute, should immediately transmit the full facts to the Bureau of Indian Affairs on a local level unless they constitute aggravated circumstances thereby justifying investigations by the FBI.

198-2.17 Character

Destruction of Boundary and Warning Signs on Indian Reservation

198-2.18 Section 1165. Illegal Hunting, Trapping, or Fishing on Indian Land

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SECTION 198. OTHER CRIMES INVOLVING INDIANS, ET AL

198-2.19 Elements

- (1) The accused without lawful authority or permission willfully and knowingly goes upon any lands that belong to any Indian or Indian tribe, band, or group and
- (2) Are held by the U. S. in trust or are subject to a restriction against alienation imposed by the U. S. or
- (3) Upon any lands of the U. S. that are reserved for Indian use
- (4) For the purpose of hunting, trapping, or fishing thereon or for the removal of game, peltries, or fish therefrom.

198-2.20 Investigative Procedure and Jurisdiction

Violations of this statute may usually be termed petty offenses constituting policing problems within the investigative jurisdiction of the Bureau of Indian Affairs, Department of the Interior. However, the Bureau of Indian Affairs, Department of the Interior, maintains no investigative facilities or personnel in the States of Alaska, California, Florida, Nebraska, and Wisconsin which have assumed jurisdiction over Indian reservations pursuant to Public Law 280, 83rd Congress. All complaints received by the field offices covering these states are to be investigated.

All other field offices, upon receipt of complaints regarding violations of this statute, should immediately transmit the full facts to the Bureau of Indian Affairs on a local level unless they constitute aggravated circumstances thereby justifying investigation by the FBI.

198-2.13 also applies to this section.

198-2.21 Character

Illegal Hunting, Trapping, or Fishing on Indian Land

PART 1

SECTION 198. MISREPRESENTATION IN SALE OF INDIAN PRODUCTS

198-3 STATUTE

Title 18, USC, Section 1159.

198-3.1 Section 1159. Misrepresentation in Sale of Indian Products

Whoever willfully offers or displays for sale any goods, with or without any Government trademark, as Indian products or Indian products of a particular Indian tribe or group, resident within the United States, when such person knows such goods are not Indian products or are not Indian products of the particular Indian tribe or group, shall be fined not more than \$500 or imprisoned not more than six months, or both.

198-3.2 Investigative Procedure

Violations of this statute may be deemed petty offenses. All complaints received by field offices should be discussed with the USA for prosecutive merit before conducting investigation.

198-3.3 Character

Misrepresentation in Sale of Indian Products

Attachment IV to this exhibit is
on file at the Commission on Civil
Rights.

ATTACHMENT V

COPIES OF DOCUMENTS PERTAINING TO THE TRANSMITTAL
AND IDENTIFICATION OF ANNA MAE AQUASH'S FINGERPRINTS
FROM HER HANDS.

2/26/76

AIRTEL

TO: DIRECTOR, FBI (ATTN. LATENT FINGERPRINT SECTION)
 FROM: SAC, MINNEAPOLIS (70-NEW) (P)
 SUBJECT: UNSUB; UNKNOWN VICTIM-DECEASED
 INDIAN FEMALE LOCATED AT
 WANSLEY, SOUTH DAKOTA
 2/24/76
 CIR - POSSIBLE MANSLAUGHTER
 OO: MINNEAPOLIS

Re: Rapid City nitel dated 2/24/76.

Enclosed herewith is one pair of hands taken from unsub at the time of autopsy on 2/25/76. Unsub located by BIA officers on the Pine Ridge Indian Reservation, 2/24/76. Preliminary autopsy failed to determine cause of death, however, pathologist determined unsub to be Indian female, 20-25 years of age, 5'2" tall, weighing 110 pounds, having undergone gall bladder surgery and childbirth.

The Laboratory is requested to conduct appropriate examination in an effort to obtain and identify fingerprints.

3 - Bureau
 1 - Package (RM) (11/1/76)
 (2) - Minneapolis

NR00T WA 000E

9:00PM URGENT 3-3-76 VLN

TO MINNEAPOLIS

RAPID CITY (70-14239)

PORTLAND (79-94)

FROM DIRECTOR

UNSUB,; UNKNOWN VICTIM - DECEASED, INDIAN FEMALE
LOCATED AT WAMBLEE, SOUTH DAKOTA, FEBRUARY 24, 1976,
CIR - POSSIBLE MANSLAUGHTER.

RE MINNEAPOLIS AIRTEL FEBRUARY 26, 1976.

FINGER IMPRESSIONS OBTAINED FROM DECEASED HANDS
SUBMITTED WITH REAIRTEL IDENTIFIED AS FINGERPRINTS OF
ANNIE MAE AQUASH, AKA - FUGITIVE, FBI NR 275929P1.

CONFIRMING

END

FEB 09 1976



FEDERAL BUREAU OF INVESTIGATION
Washington, D. C. 20537

REPORT
of the
IDENTIFICATION DIVISION
LATENT FINGERPRINT SECTION

YOUR FILE NO.
FBI FILE NO.
LATENT CASE NO. B-26932

March 10, 1976

TO: SAC, Minneapolis

UNSUB.;
RE: UNKNOWN VICTIM - DECEASED
INDIAN FEMALE LOCATED AT
WANBLEE, SOUTH DAKOTA
2/24/76
CIR - POSSIBLE MANSLAUGHTER

REFERENCE: Airtel 2/26/76
EXAMINATION REQUESTED BY: Minneapolis
SPECIMENS: One set of hands

This report confirms and supplements Batef of 3/3/76. This report also confirms and supplements Buecal to Rapid City, RA on 3/3/76.

See attached page for result of comparison of finger impression obtained from submitted hands with fingerprints of Annie Mae Aquash, FBI #275229P1.

Specimens being returned under separate cover.

1 - Rapid City (70-10239)
1 - Portland (89-94)

Latent Case No. B-26932**March 10, 1976****RE: ANNIE MAE AQUASH, FBI #275229P1**

Finger impressions obtained from the hands of an unknown deceased Indian female found at Wanblee, South Dakota on 2/24/76, have been identified as the fingerprints of Aquash.

