

THE
Unquiet
Grave

The FBI
and the Struggle for the
Soul of Indian Country

STEVE HENDRICKS

THUNDER'S MOUTH PRESS
NEW YORK

CHAPTER 1

AS THE FBI told the story, it happened like this.

On February 24, at a quarter to three in the afternoon, a rancher on that part of the South Dakota steppe that crumbles into the Badlands was looking for a place to run a fence line when he turned a bend in a gully and found, curled on its left side, clothed in a maroon jacket and blue jeans, and looking for all the world like someone sleeping in perfect peace, a corpse. Its place of rest was the bottom of an embankment twenty feet high and not fifty steps from Highway 73 but hidden from the road by the embankment. The nearest settlement lay ten miles to the southwest, at a smattering of chipboard federal houses called Wanblee; a few miles to the north, the Pine Ridge Indian Reservation, on which the corpse rested, petered out into one of continental America's emptier expanses. The body lay, if not in the precise middle of nowhere, hard on the edge of it.

Roger Amiotte did not approach the body. He returned to his truck, drove the mile back to his house, and called the Bureau of Indian Affairs police in Kyle, the next outpost past Wanblee. The police had an officer at his place in twenty minutes. The officer was followed by deputy sheriffs from Kadoka, the county seat, then by two BIA investigators and a special agent of the Federal Bureau of Investigation from the town of Pine Ridge, the reservation capital ninety miles off. A search of the scene showed no sign of crime: no violence to the body, no bullet casings or gunpowder, no scuff marks in the scrub, nothing so much as a footprint. A few tufts of dark hair clung to the face of the blond embankment, suggesting the unfortunate had fallen over it.

“When they were hauling the body off,” Amiotte would later say, “one of the cops said—I thought it was pretty tactless—he said, ‘Well, I guess there must not have been a rape involved, her pants are still on.’ *Her pants.* That was my first clue she was a woman. I didn’t get too close, and you couldn’t tell one way or the other from a distance.” She had no identification on her.

As the sun fell, Jane Doe was loaded into an ambulance and driven to the Indian Health Service hospital in Pine Ridge, where next afternoon an autopsy was performed. The pathologist judged her an Indian of twenty to twenty-five years, five feet two inches, 110 pounds, and light complexion, though dehydration and exposure had darkened her. She had borne a child or children and had surrendered a gallbladder to a surgeon and, nearer to death, had had sexual intercourse of a voluntary nature. She had died, the pathologist eventually said—the precise moment of his saying so is a matter of some importance and uncertainty—of frostbite and had lain in the elements for seven to ten days. Her decay was so severe that her fingerprints could not be taken at the hospital, so the FBI asked that her hands be chopped off and forwarded to its laboratory in Washington. The doctor amputated them, and they were sent east. While the lab worked, the authorities on Pine Ridge tried to identify the woman, but none of their leads proved fruitful. Her decomposition worsening, she was moved to a mortuary, but the body proved too far gone to preserve. On March 2, 1976, a week after her discovery, Jane Doe was given a Catholic service and a pauper’s burial in an unmarked grave by order of the BIA police.

The next afternoon, the FBI Identification Division in Washington called the FBI field office in Rapid City, which oversaw operations on Pine Ridge. It was Ash Wednesday, the day on which believers since the Middle Ages have darkened their foreheads in reminder of the approach of Judgment Day. Washington told Rapid City that the lab had lifted prints from the woman’s severed hands and the Identification Division had matched them to Anna Mae Aquash, a federal fugitive and luminary in the American Indian Movement. It took two days to find her family in the

Canadian Maritimes—Aquash was a Mi'kmaq tribeswoman, a Nova Scotian by birth—at which point the press was also notified.

That was the FBI's story.

Neither the family of Anna Mae Aquash nor her colleagues in AIM believed she had died of exposure. The Aquash they knew was too smart to have taken an underdressed stroll in the prairie winter, and even if she had she was too strong a backpacker and too shrewd an improviser to have succumbed to the cold. And she never—*never*—traveled alone on Pine Ridge, which was then in a state of anarchy just shy of civil war. Her friends and family thought it as likely she had died of exposure—alone, on Pine Ridge—as of a paper cut. They wanted her body unearthed and a second autopsy performed.

The government beat them to it. On March 9, six days after Aquash was identified, the FBI asked for and a federal judge ordered a post-mortem. Two days later a backhoe was sent to Holy Rosary Cemetery, outside the town of Pine Ridge, and the grave dug up. Candy Hamilton, a friend of Aquash's, stood vigil.

"After I got there," Hamilton said years later, "Dave Price and Bill Wood and Gary Adams showed up. They were about the worst of the FBI agents on the reservation, though they did sort of keep their distance from me that morning. I had always sworn no matter what they did, they were never gonna see me cry, but I'd already gotten started before they got there. I heard one of them say, 'Well, she's *crying*.' It wasn't a sympathetic tone. They were making jokes and laughing and all that over there."

Special Agent Wood eventually introduced himself to Hamilton.

She said she knew who he was.

He asked if she had information about how Aquash had died.

She told him to go to hell.

In half an hour, the pine vault holding Aquash was lifted from the ground, loaded onto a flatbed truck, and driven to the hospital. There waited Dr. Garry Peterson, deputy medical examiner for greater Minneapolis. Peterson had been hastily retained by the Wounded Knee Legal

Defense/Offense Committee, AIM's legal arm. When the FBI had announced it would hire a pathologist to re-autopsy Aquash, WKLDLOC (pronounced "Wickle-dock") had asked that Dr. Peterson be allowed to observe. The government's men had replied that they wanted to get started immediately but, out of kindness, would wait a day for the family's observer. But that morning at the hospital, the FBI agents told Dr. Peterson their doctor was not coming. They did not say why. They said only that if a second necropsy were to be had, Peterson would have to do it. Peterson had brought none of his tools, and the hospital was ill-equipped. (The original autopsy on Aquash, like all Pine Ridge autopsies, was the work of a pathologist who came from off the reservation, kit in tow.) Peterson asked the staff to gather what equipment they could and sent Special Agent Price to Sioux Nation, the general store in Pine Ridge, to fetch a butcher knife. A clutch of Aquash's friends, women chiefly, marked time outside the autopsy room.

"I thought, 'Oh shoot, these agents are having it much too easy today because we're all so upset,'" Candy Hamilton recalled.

"So I started quarreling with Wood. I said, 'Her family's coming and we want her jewelry and personal items to give to them.'

"He said, 'Well, that's all evidence now, you can't have any of that.'

"I said, 'That's not evidence—you couldn't even identify her by 'em. We want it.'

"He just sneered and walked out."

Hamilton is a squat woman with a voice metered in the Cumberlands and a chin that comes at you like a shovel. She was one of many white do-gooders who came to Pine Ridge in the 1970s for the cause of Indian rights and one of the few who stayed after the moment expired. She divided her time between freelance reporting and volunteering for WKLDLOC.

"Well, Wood came back in and was way across the room from me, and he said, 'Candy, you want something of Annie Mae's? Here'—and he threw a box across the room at me—'take her hands.' I caught it, and all the women turned and looked and said, 'What's that?' And I said, 'He says it's

THE UNQUIET GRAVE

her *hands*.' You could hear them rattling in there. Everybody was horrified. They hadn't started the autopsy yet, so I went in the room where Peterson was. They still had her all covered up. I told him, 'It's really important for her to have all her body together. Could you put these in with her or put them back on her or something?' And he did, he sewed them back on at the end of the autopsy."

When Dr. Peterson's tools were at last assembled, he unsealed the pine vault and with the help of Agents Wood and Adams removed the cloth-covered coffin inside. The coffin was opened and the body, wrapped in plastic and cloth, was extracted and unwrapped. It was coated in a disinfectant of such pungency that Agent Adams had to excuse himself and revisit his breakfast.

No sooner had Peterson brushed the disinfectant from Aquash than he noticed a lump in her left temple, just above the eye. It looked and felt like a bullet. He suspended his examination while a radiologist took the body for X rays, which confirmed that the lump was a metal object the size and shape of a slug. The body was returned to Peterson, and in seconds he found a hole at the base of the skull. It was surrounded by a circle of dried blood and gunpowder two inches in diameter.

"You could not believe it," he would later say. "I mean, the hole was so plain in the back of her neck. And in the front you could *feel* the lump. You could see the bullet from across the street."

Even before he opened her skull, Dr. Peterson concluded that Anna Mae Aquash had died of a different kind of exposure—as it turned out, exposure to a .32-caliber, copper-jacketed bullet.

It fell to Norman Zigrossi to explain how the government had missed a bullet in the head of a corpse and failed to recognize in her a fugitive whom federal officers had not only arrested more than once but were also searching for at the time her body was found. Zigrossi was the assistant special agent in charge of the FBI's Rapid City resident agency, which meant he ran the office. A sad-eyed man of languid posture but fleet

speech, he would soon become infamous in Indian Country for saying of its occupants, "They're a conquered nation, and when you're conquered, the people you're conquered by dictate your future." He called his agents, not inaccurately, "a colonial police force."

Zigrossi saw no mischief in the first autopsy. He said a small-caliber head wound could cause almost no bleeding and could be nearly undetectable once a body had begun to decompose. In proof thereof, he said that no one—none of the paramedics or nurses or doctors or lawmen—who had seen the body had detected the least sign of injury. As for the FBI's not recognizing Aquash, no agents had been at the autopsy, and the lone agent who saw Aquash at Amiotte's ranch did not identify her for the good reason that he had never seen a picture of her. The newspapers of western Dakota, in the manner of the provincial press everywhere, printed Zigrossi's claims without corroboration and returned to alfalfa futures and car-dealership openings.

A few less tractable observers, all from beyond Dakota, nosed further. Freelancer Kevin McKiernan, whose reporting on Pine Ridge remains a gift to history, found a nurse by the name of Inez Hodges who had been on duty the night Aquash was brought to the hospital. Hodges had seen the Jane Doe in the morgue and had instantly noticed an odd and obvious mark on the woman's eye socket: the lodged bullet, although she did not diagnose it as such. She also saw a swath of blood on the white plastic sheet beneath the woman's head. Its plain source was a raised crater at the base of the skull. Hodges showed her findings to a co-worker, whose name the FBI knows but to this day will not release. (To do so, says the FBI, would violate the witness's privacy.)

Kevin McKiernan also found Dr. Stephen Shanker, who had pronounced Aquash dead on arrival. Shanker was just out of medical school, and his experience in matters postmortem was elementary. Nonetheless, in the first moments of his exam, he noticed that the hair on the back of Aquash's head was matted with dried blood. He put his hand there and got a palmful of blood, apparently freshly thawed. A moment's probing

brought him to the bullet hole. His analysis was unequivocal—“she hadn’t died of natural causes; it looked like a police matter”—and he assumed the autopsy the next day would analyze the wound more extensively. Both Shanker and Hodges said they were stunned by the exposure ruling and that after the bullet was finally found they expected authorities to interview them about what they had seen. The authorities did not—at least not until a public outcry was raised months later.

McKiernan and other reporters also spoke with Dr. W. O. Brown, the resident pathologist at West Nebraska General Hospital in Scottsbluff and the contract coroner for the Bureau of Indian Affairs. Two or three dozen times a year, Dr. Brown flew his private plane to Pine Ridge to look over a corpse (or, more nearly, to overlook one). Of his work on Aquash, he was unrepentant. “A little bullet isn’t hard to overlook,” he said. “It certainly isn’t the first time a bullet was overlooked.” And, “Why all the interest in this case? It seems awfully routine, you know. So they found an Indian body—so a body was found.” And, “I suppose the Indians will never let that woman die. AIM’s trying to stir up all the trouble they can. It’s a matter of record that Indians use every little incident that they can to create a situation over. They distort facts and use it to their advantage to further their cause. But I’ve tried to remain neutral. I don’t think I’m prejudiced.”

The day after Dr. Peterson found the bullet, Dr. Brown was sure of this much: he had missed it only because the hospital’s X-ray machine had been broken. But he soon reversed course: the machine had been in fine fettle and he had merely chosen not to use it because X-rays were “too time-consuming,” “too awkward,” and “at times unsuccessful.” And anyway, since “it’s fairly common for Indians like these to die of an overdose,” why bother X-raying them? (His tests showed that Aquash’s blood was free of drugs or alcohol.) When other excuses failed him, he said he had cut short his exam because the body was “stinky” and “decomposed”—conditions one might have thought were as routine in his work as soot in a chimneysweep’s.

But from his verdict he did not swerve. It was the frost that had taken Anna Mae Aquash, not the bullet. The bullet, he said, may have pierced

the brain casing, but not the brain proper. *If* it had entered the casing, it *might* have started a chain of events that incapacitated Aquash and left her at the mercy of the cold, but the shot did not kill her. A lesser faith might have been shaken by having missed, progressively, the stained sheet beneath Aquash's head, her gunpowdered and bloodied hair, the hole through several layers of bone, the bloodied masses of soft tissue (including the brain, through which the bullet had in fact passed and which Brown had removed and examined before dumping it in Aquash's chest with other dissected organs), and finally the bullet itself. But Brown's faith was hardened by a steady diet of errata. Among other "errors" in the autopsy, he claimed to have dissected and measured Aquash's stomach, one of her kidneys, and her adrenal glands, but Dr. Peterson found all of these organs attached, unopened, and with metrics quite different from Brown's. And although Dr. Brown reported that Aquash had not been raped and had been dead no more than ten days, Peterson concluded that rape could not be ruled out and Aquash could have been killed weeks, even months, before she was found. Whether these other errors argued that Brown had missed the bullet purposely or incompetently was anyone's guess.

The FBI was in a better position to guess than most. Although Norm Zigrossi said none of his men had been at the autopsy, a nurse who helped with the autopsy told reporters that she had given Aquash's amputated hands to Agent David Price. A BIA investigator at the autopsy, Nathan Merrick, said he "thought" two FBI agents had been there, one of whom was Price. Dr. Brown said on one occasion that a couple of agents "may" have been at the autopsy and on another that agents had wandered in and out of the procedure. The doctor finally settled on the position that no agents had been there at any time. It is this position that the FBI has taken before Congress and other inquirers ever since.

It is not true. FBI reports released under the Freedom of Information Act would eventually prove that four agents—Price, Wood, Donald Dealing, and John Munis—were in the autopsy room, some just before

and some just after the procedure. Price even photographed Aquash's face. Zigrossi had either lied or been lied to about his agents' presence.

"In the 1980s we had the pleasure of deposing David Price," Ken Tilsen, the senior-most lawyer of WKLDLOC, would later say. "Price, to my mind, must be the most evil living agent in an organization that trained thousands of agents in the practice of evil. When we asked him whether he was at the autopsy, his answer was, 'I wasn't there.'"

"'Okay, then, why did the doctor's assistant say she gave you the hands?'"

"'Well, I was outside the room.'"

"'I see. Was there a window in the door?'"

"'Yeah.'"

"'Did you look through the window?'"

"'I may have.'"

"'But you weren't at the autopsy?'"

"'Oh, no. No, no, nooooo.'"

Asked what he remembered in 2003, Norman Zigrossi said, "I know all about the first autopsy. I'll never forget it. Now, I can tell you which of our agents were there, and that was Price and Woods"—he meant Wood.

Was he saying that Price and Wood were in the room while Brown was working on Aquash?

"That's correct."

Zigrossi was unaware he was making a confession. He seemed merely to have forgotten his original story and was now saying what he remembered, which unfortunately for his credibility was the truth.

As at the autopsy, so at the crime scene. Zigrossi said only one FBI agent (eventually named as Donald Dealing) had gone to Roger Amiotte's ranch, but witnesses counted four agents. Amiotte remembered Price and Wood by name. A BIA officer also remembered Price—yet the officer's boss, BIA police chief Ken Sayers, tried to claim the officer was not there. Sayers said only three BIA policemen went to the scene, but witnesses counted as many as six, including Sayers, who in turn denied he had been at Amiotte's.

“When we asked Price whether he was at the crime scene,” WKLDOC’s Ken Tilsen said, “his first thing was, ‘I wasn’t assigned to her.’”

“ ‘Okay. Were you there?’ ”

“ ‘I wasn’t working that day.’ ”

“ ‘That wasn’t the question. Were you there?’ ”

“ ‘I don’t remember.’ ”

Months after the body was found and after much harrying by Kevin McKiernan, Zigrossi said that while only Agent Dealing had gone to Amiotte’s ranch on assignment, others might have gone “out of curiosity.” To go to Amiotte’s “out of curiosity” meant making a three-hour round-trip from either the town of Pine Ridge or Rapid City, where agents were stationed. Because the FBI had jurisdiction over reservation deaths only if they were criminal in nature and because even then the “colonial police force” tended not to be interested in Indian corpses, reporters thought it odd for even one agent, let alone four, to go to Amiotte’s. In later years Zigrossi dismissed such talk as nonsense. He said that after two of his men were killed on the reservation in a shootout the year before, he dispatched agents to every unattended death to see if there might be a tie between the new corpse and the agents’ killers. This was news to reporters.

Whoever and however many the agents at the scene were, what they saw was another story the FBI could not keep straight. The night the body was found, agents in Rapid City cabled Washington that there was “no indication of fowl [sic] play.” But the same cable assigned the case the title “Possible Manslaughter.” There was no explanation how manslaughter had been suspected in the absence of evidence of foul play. The FBI would later say its agents were just suspicious about a dead body turning up in the middle of nowhere. But if this innocent explanation were true, agents should have re-titled the case after Dr. Brown’s autopsy concluded that the woman had died innocently. But the “Possible Manslaughter” title continued to appear on documents from Rapid City even after Brown’s autopsy and, still more incredibly, after Aquash’s burial. The FBI would offer an explanation for this oddity too: its agents did not know about Brown’s exposure finding until eight days later. That is, the four agents who went to the autopsy were

so uninterested in its outcome that neither then nor over the next week did they bother to ask what Jane Doe had died of. Only after the FBI learned that the dead and buried woman was Aquash did they ask what Dr. Brown had found. (They asked by way of a chat on March 4 between Agent Wood and Dr. Brown.) Agent Wood swore to all of this before the judge who ordered Aquash exhumed.

The only hitch in these claims is that an FBI cable released under the Freedom of Information Act says otherwise: the FBI knew of Brown's exposure finding at some unidentified point before Wood's chat with Brown on March 4. No doubt (although the cable does not say as much) the FBI knew of the exposure finding the day Brown made it. Whenever, precisely, the FBI knew, the cable is at odds with Wood's sworn testimony and points to a cover-up. Wood may also have been attempting a cover-up when he swore in court that Brown told him in their chat that during his autopsy he had seen "an obvious injury . . . a small contusion on the head." Brown, of course, said exactly the opposite in his autopsy report and on every other occasion that he was asked about the autopsy. It is impossible to sort out all the lies here, but probably Wood or Brown—knowing that when Aquash was exhumed and re-autopsied, the bullet would be found—decided it would look better if the authorities had seen a bump and missed a bullet than if they had missed everything, and thus concocted the "obvious injury."

The Dakota press did not notice the many contradictions. The same newspapers that on February 25 had quoted FBI agents saying there was no hint of foul play, on March 4 quoted Wood saying there had been a big hint of foul play. When, only a few weeks later, the FBI reversed course again—dropping Wood's claim of the obvious injury and resurrecting the original claim of no hint of violence (which has remained the official line ever since)—the press, not having spotted the first change in course, did not spot the reversion.

The agents who sent Aquash's hands to Washington were working in a long tradition. In four of the New World's five centuries, frontier capitals had

paid bounties for Native body parts in proof that their owners had been exterminated. As a grisly byproduct, scalps and hands, ears and genitals became trophies in the saloons and on the saddle horns of the Americas. Even in 1976, when Aquash was dismembered, the museums of civilized North America displayed the skeletons and mummified heads of tribal elders—grandparents and great-grandparents of those still living. The FBI agents who had Aquash's hands severed could not have known they were carrying on a tradition that would make a martyr of Aquash, that songs would be sung about her and ceremonies held in her honor and newborns named for her decades after their deed. Agents did, however, know to be bashful about their handiwork. Early press releases said Aquash's "fingerprints" had been sent to Washington but neglected to say her fingers had gone with them. When the particulars were outed, the FBI described amputation as a standard practice for identification in many jurisdictions, but it could point to no such jurisdiction in North America. Over the years, the FBI refused to say whether its agents had considered other, less gruesome, means of identification. It said only that "it was impossible to obtain fingerprints" on Pine Ridge.

The claim did not sit right with Garry Peterson. "All fingers," he wrote in his autopsy report, "show distinct fingerprint ridges although the finger pads appear somewhat wrinkled." Dr. Peterson said afterward that anyone trained in taking prints—that is, any FBI agent or BIA officer—should have been able to print the fingers. Had better results been wanted, the agents could have asked Dr. Brown to inject fluid beneath the dehydrated fingertips. If all else had failed, Brown could have severed only the fingertips (as the FBI lab eventually did), putting each tip in the corresponding finger of a latex glove and sending those to Washington. There was no justification for taking the entire hands.

A naïf might read into the FBI's claim that "it was impossible to obtain fingerprints" a suggestion that someone had tried. This was not so. The lawmen who had gone to Dr. Brown's autopsy eventually said they were too afraid of destroying even a single print to gently daub a pinky with

ink and press it to paper. Far safer, they thought, to have the hands sawn off, immersed in a formaldehyde-filled jar, and mailed to Washington. That the lab could make casts of the prints even after two thousand miles of jostling against glass and that Dr. Peterson found the fingers still printable after their return to Pine Ridge suggested something about their original state.

“One question,” Ken Tilsen later said, “that the FBI could never answer about cutting off her hands was, why not wait?” Tilsen in latter years was a man of bare pate and bad angina but still, as he had been in the 1970s, an adherent of the querulous detail, which he piled one atop the next with compounding weight. He carried himself accordingly, chest forward, like a stevedore or beauty queen, but the aggressive effect was tempered by a wrinkled, deliberate voice conveying lawyerly gravitas. “Even if the FBI thought they had to cut off her hands, basic decency requires that you wait more than a day to see if other people might recognize her, particularly since Pine Ridge was and is a small place where everybody knows everybody. They didn’t even pause before taking that drastic step. When I asked experts about the motivation for this, what they told me was that the primary result of removing her hands and sending them to the lab—rather than taking the fingerprints at the hospital—was to increase the length of time it took to identify her. [Indeed, once during Aquash’s life the FBI had identified her in twenty-four hours from prints lifted off her in the field.]

“Now, why would they want to delay the identification? I have always suspected it was because the FBI was afraid of what they would find if they dug into this case. They knew this was Anna Mae Aquash, and they were afraid that some of their people—not necessarily FBI agents, I have never believed even David Price was capable of pulling the trigger, but their allies, their friends—were involved, and they didn’t want to find out. They wanted the trail to go cold. Any of the agents who saw Anna Mae should have been able to identify her. They had her photograph and they had a description of her. She was a fugitive—and not just any fugitive. They believed she had information about the killing of the two FBI agents on

Pine Ridge in 1975, to the investigation of which the FBI had devoted every imaginable resource, and they believed she had been traveling with some of the alleged killers. Moreover, before she disappeared, she was scheduled to appear in court. But the day before her trial, she jumps bond and walks out of the same hotel where the FBI was staying. David Price was, I think, staying in that very hotel. She literally walked out from under their noses. After that, they *had* to be hunting all over for her. A few months later, a woman shows up dead on the same reservation where Anna Mae lived. The body is in the middle of nowhere. It is inconceivable that this woman just wandered off on a drunk and died of exposure, miles from the nearest bar or for that matter any human habitation. The agents look her over. She's an Indian of attractive build. She's about the right age, about the right height, right weight. She's wearing the very distinctive jewelry she always wore. Only a few of the FBI's important fugitives are women, fewer still are Indian women, and fewer still are Indian women from Pine Ridge. Yet the FBI wants us to believe that not one of those agents at the scene or the hospital thinks, 'Hmmm, I wonder if this is our fugitive?' For any of these agents, that is virtually impossible to believe. For David Price it is absolutely impossible."

It was "absolutely impossible" because Price knew Aquash. Less than a year before she turned up dead, he had questioned her about a murder. Several months after that, he had arrested her in a raid, by some accounts recognizing her on sight. He had almost certainly lied about being at Amiotte's, and he had lied about or obscured his proximity to the first autopsy, at which he had photographed her face. At the time he took those pictures, he had been in possession of pictures of the living Aquash. And although he would later swear he was not looking for her, internal FBI documents would eventually prove that just days before her body was found, he was helping to coordinate the hunt for her. And then there is the story that Aquash told her peers, which was that in the last months of her life Agent Price had given Aquash a choice: cooperate with the FBI, or he would see her dead before the year was out.

She had told him to go fuck himself. (Price has consistently and vehemently denied the story.)

THE UNQUIET GRAVE

* * *

To believe the FBI's claim that its agents did not recognize Aquash was to believe its claim that she was thoroughly decayed. That she was decayed was not in question. How badly decayed was.

"Her face was pure black with exposure and dehydration," David Price once said, "and she had no eyes! *You* try to identify a girl you've only seen twice in your life and [identified] the second time only because she identified herself!" The FBI's press officers have said the same thing through the decades, if with less spirit. Price's claim is supported by a BIA policeman who knew Aquash slightly and said he did not recognize her when he saw her in the morgue.

But other witnesses have said differently. Dr. Peterson, while cautioning that it is harder to identify a rotted corpse than most people think, said Aquash's condition "wasn't bad, even after burial and exhumation." The workers at the hospital who saw Aquash before the first autopsy were more adamant: Jane Doe could have been identified by anyone who knew her. Journalist Kevin McKiernan said that pictures from the second autopsy "showed facial features that appeared identifiable" but also that someone who did not know Aquash well might have needed leading—say, with lineup photos—to identify her. Ken Tilsen said no one who knew Aquash failed to recognize her from the second-autopsy pictures. And Candy Hamilton said Aquash was "totally recognizable" in the pictures.

The FBI could make the question moot by releasing its photos from the two autopsies. It will not. To do so, say Aquash's dismemberers, would violate norms of decency. The FBI does, however, say that its agents showed the pictures to people on the reservation and that this is proof that agents were trying to identify Jane Doe. But the FBI will not say to whom it showed the pictures, and the only person known to have seen them is one Myrtle Poor Bear. In Poor Bear's story, Agents Price and Wood showed her the pictures as a threat. They said Aquash had been blackened by fire, not frostbite, and that if Poor Bear did not agree to lie under oath that she had seen AIM's Leonard Peltier kill the two FBI agents in 1975, Poor Bear

would end up like Aquash. Poor Bear perjured herself. Price and Wood said Poor Bear's claim of having been threatened was a lie. The irony of their saying so about a witness who said they made her commit perjury was apparently lost on them. Whatever the truth of Poor Bear's story, the FBI has never explained why its agents were showing pictures of someone whose face was rotten beyond recognizing. If Aquash was, as the FBI claimed, beyond identifying, what good did it do to show the pictures? Surely the mere fact of showing them (if true) proves she was at least potentially identifiable.

"The other thing they say about their great efforts to identify her," Candy Hamilton said, "is they put out a flyer about this unidentified woman. But no one ever saw it. After we found out it was Annie Mae, I dug around on the bulletin board at Sioux Nation and finally found one sign buried under a whole bunch of other stuff. That's the only one I ever saw or heard of. It had the wrong age, wrong size—five-six or something. And she was teeny. I mean, I'm five-four, and I felt like I towered over her."

The flyer does not survive, but the BIA memo on which it was based does. It says Dr. Brown measured the body at five feet two inches and 110 pounds. How Aquash grew to five feet six or so in the flyer is a mystery. (When Brown released his autopsy report two weeks later, Aquash mutated again: five feet four and 105.) Hamilton said the flyer mentioned none of Aquash's identifying traits—her gallbladder scar, her partial dental plate, her childbearing, her jewelry—though all were noted in Brown's autopsy. The jewelry, her friends have said, would have given her away in an instant. Three decades later Roger Amiotte still remembered her "big butterfly bracelet with great big wings of silver and a body of turquoise—stuck out about yay, wider than my wrist. It was unique." The FBI thought the bracelet unusual enough to show a local jeweler (who knew neither its owner nor its maker), but the agents did not show it to the public.

After several days in the hospital morgue, Aquash's corpse was sent to a mortuary just over the state line in Nebraska. But the mortuary, according to BIA police chief Sayers, "told us they couldn't keep it in the state it was," so Sayers ordered the body buried. Yet mortician Tom Chamberlain told

another story: the body, he agreed, was beyond embalming, but it was not bad off, certainly not beyond keeping. He had coated it with disinfectant and put it in his unheated garage, where he was certain it could have stayed a week or more in the cold weather—only, Sayers had called him a day or so after the body's arrival and insisted it be buried. Chamberlain said he had asked just how Sayers intended to do that when the corpse had not been identified and had neither a death certificate nor a burial permit attached to it. Sayers did not have an immediate answer.

“Darnedest thing I ever saw,” Chamberlain said. “Been doing this for over fifty years and haven't run into a case like this yet.”

A friend of Aquash's who had other funeral business visited Chamberlain's at this time and overheard Chamberlain on the phone saying he wouldn't bury an unidentified body without approval from the state licensing office. The friend, Gladys Bissonette, offered to look at the Jane Doe, but Chamberlain told her he had been ordered to let only “authorized” people see the body. Another friend of Aquash's, Lou Beane, said she visited Chamberlain's and heard him say he had a corpse out back with a bullet in its head. The undertaker denied Bissonette's claims; he was not asked about Beane's before his own undertaking.

In the end, Chief Sayers prevailed on a priest at Holy Rosary Mission to bury the woman. No burial certificate ever surfaced, and neither church nor funeral parlor kept their usual records for processing a body. The priest at Holy Rosary later explained that he had buried the woman without the required paperwork because last rites were a sacrament he had to give all comers.

Toward the burial the FBI took an attitude similar to its attitude toward the first autopsy: it knew nothing of the BIA's work. Only after the deed was done, Agent Wood swore in court, did the FBI learn Aquash had been buried. But again there is evidence to the contrary. Inmates from the Pine Ridge jail who buried Aquash on March 2 also exhumed her on March 11. They said the same men in suits attended both affairs. Candy Hamilton said the only suits at the March 11 exhumation were on FBI agents. Ergo

the FBI seems to have attended the March 2 burial. Then, too, a report from Agent Wood said that on March 2, BIA officer Merrick told him the body “was being buried at Holy Rosary Cemetery on March 2, 1976.” “Was being buried,” meaning *at that moment being buried* or *soon to be buried*, was rather different from what Wood told the court: Aquash “had been buried” by the time he learned about it.

Say you have a body that has not been identified. Say you think it is deteriorating and needs to be buried. Say you have chopped off its hands and sent them to a lab, and the lab has succeeded in lifting prints and is trying to match the prints to those in its files, and it has told you this. Say also that a match can typically be made or ruled out in a fairly short time—hours if the prints are unusual in their characteristics, a few days if they are common. Say a need arises to bury the body, and you happen to call the lab on the day of the burial. Would you not, before you put the body in the ground, ask the lab how much longer it needed to make an identification?

Not if you were Agent Wood. Although he spoke with the lab on March 2, he was, according to repeated statements from the FBI, as surprised as anyone to learn on March 3 that the just-buried woman had been identified a day too late. But once more his claim is not borne out by FBI documents. The key manuscript is Aquash’s FBI Identification Record, a form on which FBI headquarters in Washington records a person’s vital statistics and runs in with the law. Aquash’s death was logged on her identification record as “received” on March 2, the day she was buried. Headquarters could not have marked her death as received into her record unless it knew her identity. Which is to say the FBI apparently identified Aquash either on or before the day its agents buried her—not the next day, as publicly claimed. The FBI could clarify precisely when Aquash was identified by releasing notes from its lab and fingerprint units, but the FBI refuses to do so. The FBI has released just one other paper on Aquash from its identification division, and it was doctored before it was made public. The paper *is* a short memo saying simply that the lab had identified Aquash. What is doctored is the date,

which in the released version reads “March 10, 1976.” The “10” has been sandwiched into a space that originally held only one digit, which digit was apparently whited-out and replaced with the “10.” Perhaps the doctoring was harmless. Or perhaps the original digit was a damning 1 or 2, indicating the FBI knew who Aquash was before her burial on March 2.

Against all of these hints of a cover-up, the FBI has long defended itself by noting that it was Agent Wood who secured the court order to have Aquash exhumed. According to the FBI, “immediately” on learning Aquash was Jane Doe, Wood went to work on the exhumation papers. Had he wanted Aquash to stay buried, the FBI has said, he would have done nothing of the kind. But neither the FBI nor the office of the U.S. attorney, which drafted the exhumation request, has produced any evidence that they started working on the request until March 8, five days after Aquash was identified. March 8 happened to be the day a lawyer from WKLDLOC went to the FBI’s Rapid City office and demanded a copy of Dr. Brown’s autopsy report. The lawyer, Bruce Ellison, said WKLDLOC did not believe Aquash had died of exposure and strongly insinuated the Bureau was hiding something. Agent Tom Greene, who spoke with Ellison, could have deflected the charge by saying the FBI was at that moment working to exhume Aquash. He did not. It is possible, then, that the FBI moved to exhume Aquash only after it became clear that WKLDLOC would do so. Regardless, the FBI was in no hurry to dig up a body that it had called “terribly decomposed” and that, day by day, was decomposing further, to the harm of whatever story it had to tell. Of course, anyone who knew there was a bullet in its skull need not have hurried.

The first time a director of the FBI spoke publicly about the Aquash case was in May 1976, three months after the body had been found. Till then, Clarence Kelley’s FBI had ducked questions by saying that because the case was open, the Bureau couldn’t discuss it without compromising the investigation. It was a dubious argument. The questions being put to the FBI— who was at the crime scene? was Aquash identifiable? when was she

identified?—would have compromised only its agents. Kelley agreed to speak only after the *Washington Star* and *Minneapolis Tribune* ran page-one exposés about the case, which in turn prompted Attorney General Edward Levi, Kelley’s superior, to promise an investigation by the Justice Department. Kelley ordered his own investigation first. The objectivity of the probe may be measured by the fact that Agent Wood was one of the investigating agents. Together, the FBI’s investigation and the press reports told Kelley that witnesses had seen four FBI agents at the crime scene, that hospital staff had seen the bullet wound, and that mortician Tom Chamberlain had said Aquash did not need to be buried immediately. But when Kelley spoke to the public, he said that only one agent had been at the scene, that no one there or at the hospital had seen any sign of violence, and that Chamberlain had declared the body needed to be buried. Kelley also knew the entrance wound had been obvious, but he implied it was not by calling it “small.” He knew the lodged bullet had been visible to the naked eye, but he implied the opposite by saying it had settled “behind” Aquash’s eye socket. He knew Dr. Peterson had diagnosed the bullet wound in a few seconds, but he implied the opposite by saying Peterson made his diagnosis only after X rays were taken. The FBI has reiterated Kelley’s falsehoods, with only the smallest of changes, ever since. In recent years, it has even said that Dr. Brown made his exposure finding after only a “ cursory ” look at the body, not a full autopsy.

Attorney General Levi assigned the Justice Department’s General Crimes Division to look into the FBI. The relationship between the lawyers of General Crimes and the agents of the FBI was that of coaches to their star players. What General Crimes investigated and what it concluded, Levi never said. The investigation simply disappeared. Reporters with sources inside the Justice Department said the investigation was never completed; apparently Levi accepted Kelley’s internal inquiry in its place. When the U.S. Commission on Civil Rights asked about the General Crimes investigation, the Justice Department ignored the query, although it was required by law to answer. When USCCR persisted, Assistant

Attorney General Richard Thornburgh (later attorney general under Reagan and the elder Bush) finally replied, “You may be assured that our review of this matter was thorough. However, in my opinion it would be inappropriate to forward to your office investigative reports on matters that are currently under investigation.” From time to time over the years, members of Congress were asked by their constituents about FBI wrongdoing in the case, and the legislators in turn asked the FBI for explanations. The standard reply from the FBI read, “We believe the allegations . . . lack the specificity necessary for an investigation. Accordingly, no action on our part is warranted.”

The man whose autopsy was at the center of the scandal, Dr. Brown, was never investigated—unless a lone phone call from Norman Zigrossi counted as an investigation. Of the phone call, Zigrossi later recalled, “I said to him, ‘Did you realize that we had to do another autopsy and they found a bullet in her head?’

“‘Oh well,’ he said, ‘you can’t get ’em all.’

“I said, ‘You realize what that does to me?’

“He said, ‘I’m sorry. I’m human, okay?’

“I said, ‘Okay, you may have to testify to that someday.’

“He said, ‘That’s fine, I’ll testify.’

“What could I do? I can’t chew out an old man who tells me he did the best he could. And I believe that’s exactly what happened. I have no reason to believe anything different.”

The FBI was not known for such solicitude with, say, members of the American Indian Movement who offered thin alibis.

Five years after Aquash’s death, at a congressional hearing to reauthorize the FBI, a committeeman asked the FBI whether, given the suspicion that continued to surround the case, the FBI would ever investigate Dr. Brown’s role. (The doctor himself had since died.) The FBI functionary at the microphone said the Bureau saw no point in doing so: “I don’t think anything could come of it.” The committee accepted the answer and moved on. But Indian Country has never moved on.