

**Treatment of John Graham by the Government of South Dakota August 2009 to January 2011: Improper Extradition, Contradictory Testimony by State Witnesses, Improper Relationships Between State Witness, and Witness Tampering by the State**

by John Graham, February 19, 2024

My rights according to law were not respected when I was extradited. Contradictory testimony by state witnesses was not given appropriate weight by the court, nor were the many improper relationships between state witnesses, nor witness tampering by the State. Examples of all this is documented below. Actual testimony of State witnesses is given as recorded in official trial transcripts.

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**Improper Extradition**

***August 19, 2009***

The South Dakota Governor announced that one of the two federal prosecutors on my case, Marty Jackley, had been appointed State Attorney General with his term to commence September 4, 2009.

***September 9, 2009***

Within days of Jackley's appointment as Attorney General, State prosecutors held a grand jury session at the conclusion of which three new State charges were made against me. State charges I HAD NOT BEEN EXTRADITED ON, nor had Canada consented to WAIVE SPECIALTY ON. All charges are punishable by life imprisonment without possibility of parole.

On a date unknown to me, the United States first communicated with Canada regarding State charges I had not been extradited on.

***November 16, 2009***

Canada's Department of Justice opened a file concerning a U.S. request for waiver of specialty, two months after South Dakota State charges had been initiated. CANADA GAVE NO NOTICE TO ME that the U.S. had requested consent.

***December 2009***

I am now charged in two jurisdictions concerning the same homicide. My federal trial set to commence February 17, 2010, my State trial set for March 2010.

**December 18, 2009**

By Diplomatic Note #852, the United States formally sought Canada's consent to waive specialty.

Canada's Minister of Justice DID NOT ADVISE ME that a request that he consent to waive specialty had been made, nor DID HE INVITE SUBMISSIONS FROM ME as to whether Canada should consent to waive specialty. The Minister did not refer the matter back to the extradition Judge for a Judicial Hearing of the issue, and DID NOT INVITE ME TO MAKE SUBMISSIONS as to next steps.

**February 2, 2010**

Four days after the International Assistance Group (IAG) briefing Memorandum to Justice Minister Nicholson he consented to waiver of specialty. The decision was recorded in a formal document endorsed by the Minister. I WAS NOT SERVED WITH THE DECISION. There is no Reason associated with the decision.

Canada's Minister of Justice Nicholson CONSENTED TO WAIVE SPECIALTY WITHOUT NOTICE TO ME, provided NO OPPORTUNITY FOR ME TO BE HEARD, and MADE NO DISCLOSURE OF REASONS. His decision enabled the State to proceed with it's prosecution.

**March 8, 2010**

My counsel advised the State Court of South Dakota I HAD NOT HAD CANADIAN REPRESENTATION OR INPUT REGARDING WAIVER OF SPECIALTY. The State prosecutor and the Court expressed the view, IT WAS IRRELEVANT HOW I CAME TO BE WITHIN THE STATE'S JURISDICTION.

**March 9, 2010**

Prosecution provided SEALED documents to the court that included the Minister's waiver of specialty, advised Canada indicated it did not agree to the disclosure of the Minister's decision unless the U.S. Court viewed it necessary to the defense. The court declined to order disclosure.

Pursuant to a doctrine known as the rule or doctrine of specialty, a person who has been extradited cannot be tried for any offences committed before extradition other than for those for which he was surrendered unless he's had opportunity to return to the surrendering State.

ARTICLE 12 of the Canada - U.S. Extradition Treaty (the "Extradition Treaty") contains terms relating to Specialty. It provides that a person extradited under the Extradition Treaty shall not be prosecuted in the requesting State for an offence other than that for which extradition has been granted, unless, inter alia, the requested State has consented to that person's prosecution for an offence other than that for which extradition was granted.

The rule or doctrine of Specialty operates to both protect State sovereignty and to protect the rights of the person extradited.

Specialty creates rights of a personal nature reflected in the Extradition Act. S.72(2), which describes mandatory terms related to waiver of extradition, and stipulate that when such waiver is made the judge is required to inform the person of "the consequences of the waiver including the consequences of that person waiving the protection of Specialty". Thus the act makes evident that specialty operates as a "protection" of the individual and that the individual possesses rights related to it.

***November 29, 2010***

At the beginning of my State trial the prosecutor's advised the trial judge concerning count 2 felony murder (rape), that Canada doesn't have felony murder (rape) and thus the charge was dropped. There has been no disclosure to Graham of how or why the Minister distinguished the felony murder (rape) charge from the felony murder (kidnapping) charge in deciding waiver of specialty; neither offense exists in Canada. The prosecution proceeded on State charges of felony murder (kidnapping) and premeditated murder.

***December 10, 2010***

After an eight-day trial the jury found me NOT GUILTY of premeditated murder, but guilty of felony-murder (kidnapping).

***January 28, 2011***

I was sentenced to life imprisonment without possibility of parole.

The State of South Dakota has contrived a conviction through the pretense of a trial which in truth is used as a means of depriving me my liberty through the deliberate deception of the court and jury by the presentation of testimony known to be perjured testimony.

The Court has consistently held that a conviction obtained by the knowing use of perjured testimony is fundamentally unfair, and must be set aside if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury.

### **Different Stories That Can't All Be True**

Four State witnesses all claim to be in the same apartment at the same time witnessing the same event, but can't tell the same story.

Defense counsel was aware of witnesses perjurious testimonies pre-trial but failed to object or correct their admissibility at trial.

Any testimony of Anna Mae Aquash being tied-up or kidnapped in any way, shape or form is perjury on the part of those testifying.

Any Attorney at trial either representing the government or the defense, having heard four State witnesses give four completely conflicting stories about the same alleged incident, should have been able to expose the lie's all four were telling. A vigorous cross-examination would have exposed where their perjury originated from.

I have always clearly stated to both trial and appellate counsel that Aquash was never tied up or kidnapped in any way. She was never in any way taken anywhere against her will. Anna Mae was always clear about where and why she wanted to go anywhere. I have always very clearly relayed this to my legal counsel.

Attorneys as officers of the court are presumed to do their duty as the law requires. *Brim v. State* (SD 1980).

I was constitutionally guaranteed the assistance of counsel under Article VI sect. 7 of the South Dakota Constitution. This means adequate and effective assistance to counsel. *Crowd V. State* (SD 1972).

Superficial, casual representation does not satisfy the constitutional guarantee to effective assistance of counsel.

**Defense counsel's failure to file discovery motion requesting, inter alia, any deals, promises or inducements made to government witnesses in exchange for their testimonies.**

Defense counsel in a criminal trial has an obligation to avoid assisting the prosecution of what he has reason to believe is false testimony.

No pre-trial interviews or investigations resulting in no thorough cross-examinations at trial into State witnesses contradicting and conflicting testimonies, resulting in trial counsel's inexcusably losing the opportunity to present my theory of the case through witness testimony.

Defense counsel allowed the State presentation of it's theory through the perjurious extensive testimonies of witnesses to events in Denver to go basically unchallenged.

**Defense counsel has an obligation to avoid assisting in the presentation of what he has reason to believe is false testimony, or testimony contrary to the version of facts given earlier in confidence.**

Counsel's failure to present evidence to challenge State evidence on issues prejudicial to me.

Under Due Process Clause a new trial is required if perjured testimonies introduced by the State is allowed to go uncorrected, or unchallenged when it appears, and could have in any reasonable likelihood affected the judgment of the jury.

Defense counsel failed to move for mis-trial and prosecutorial misconduct, not stopping or correcting State witnesses false testimonies. The prosecution as well defense counsel knew these testimonies to be false from previous Grand Jurys and two previous related trials.

**Defense counsel's failure in not objecting to perjurious witnesses giving extensive testimonies; failure to motion for instruction relating to immunity agreements for testimonies perjured.**

The Court's failure to note the well established rule that "a conviction obtained by the known use of perjured testimony is fundamentally unfair, and must be set aside if there is any reasonable likelihood that the false testimonies could have in anyway affected the judgment of the jury".

**Contradictory Testimony by State Witnesses on Anna Mae Aquash having been Tied Up or Not**

***Prosecution's Closing Argument, Mr. Rod Oswald Assistant Attorney General, December 9, 2010***

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 9 of 10, December 9, 2010 (98 pages, PDF, 1.2 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_09.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_09.pdf)).

P. 15 lines 1-5:

..., but in order for you to find a reasonable doubt of a kidnapping -- if you are going to find a reasonable doubt that that took place, you will have to find Troy Lynn is lying, Angie Begay Janis is lying, George Palfy is lying;

**Cross-Examination December 2, 2010 of State Witness Angie Janis**

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 4 of 10, December 2, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_04.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_04.pdf)).

P. 79 lines 12-13

Q. I want to go back to that interview on October 18, 1993 with Mr. Ecoffey.

P. 80 lines 15-18

Q. Now, that you reviewed that, you realise or you remember now, that you never mention anything about Anna Mae Aquash being tied up?

A. Yes.

P. 81 lines 18-19:

Q. Now I want to take you up to your next interview. And this was June 27, 1994.

P. 82 lines 20-25

Q. And you also added - - one additional detail was that you believed Ms. Aquash had been tied up at that occasion?

A. Uh-huh

Q. Is that correct?

A. Yes.

P. 83 lines 15-20:

Q. bring you up now to July 20, 1994. This time you are interviewed by Mr. Ecoffey, who is now the U.S. Marshal, and Mitch Pourier. Do you recall talking to them together?

A. Yes.

P. 84 lines 10-16:

Q. Okay. And here on this occasion, as the time is getting farther away from the event, you are clear in your mind that Anna Mae Aquash was tied with her hands behind her back. Is that your recollection of what you told them?

A. That her hands were tied.

P. 85 lines 3-12:

Q. That's what you told them on that third interview now, is that correct?

A. Yes.

Q. You didn't mention anything about her being tied to a board, did you?

A. No.

Q. And you didn't mention anything about her being carried out by anybody, did you?

A. No.

P. 86 lines 22-23

Q. Now, I am going to bring you up to your first sworn statement, October 27, 1994.

P. 87 line 5-8:

Q. Do you recall telling the grand jury that Anna Mae Aquash was down in Denver at Troy Lynn's house but she was on her way to another house, another place?

A. No, I don't recall that.

P. 89 lines 2-6:

Q. And at that time, you were asked whether it was in front or back? This is back in 1994. You don't have any recollection of how she was tied up, correct?

A. Yes.

P. 90 lines 6-12:

Q. The next time you gave a statement, you were also under oath. That was at the trial of Arlo Looking Cloud's case. Do you remember that?

A. Yes.

Q. You testified on February 3, 2004?

A. Uh-huh.

P. 91 lines 14-25 and p. 92 lines 1-12:

**Q.** Now, on that occasion, you told the jury that Anna Mae Aquash was tied to a board and carried out of Troy Lynn's apartment, correct?

**A.** I don't recall.

**Q.** Would you like to see your previous testimony?

**A.** Yes.

**Q.** You were asked the question, how was she tied up was your answer, I think her wrist were tied and they had her on like a board or something. Her hands were tied to the board. Question, do you recall? Your answer, they carried her out. Question, they carried her out? Answer, yes. Correct?

**A.** Yes.

**Q.** That's what you said in 2003?

**A.** Yes.

**Q.** Now you would agree that differs completely from what you told Mr. Ecoffey and the Grand Jury on previous occasions, correct?

**A.** Uh-huh.

**Q.** And it's different from what you told the jury today, correct?

**A.** Uh-huh.

P. 94 lines 2-8:

**Q.** In any event, Mr. Ecoffey came to you and essentially asked you, are you going to change your story again, and you said no; is that fair to say?

**A.** Yes.

**Q.** You then testified September 9, 2009, about a year ago before a Grand Jury?

**A.** Yes.

P. 95 lines 2-24:

**Q.** On that occasion, a couple years after the trial in Arlo Looking Cloud's case you told the jury Anna Mae walked out of Troy Lynn's house on her own, correct?

**A.** I don't recall.

**Q.** I am going to show you a question asked to you. Was she walking on her own power? Your answer, yes.

**A.** Yes.

**Q.** And so she was no longer tied to a board and carried out, now she's walking out voluntarily?

**A.** Yes.

**Q.** And in fact, you told the grand jury at that occasion you didn't see anybody push her, shove her, or force her out of the house?

**A.** Yes.

***Recross-Examination December 2, 2010 of State Witness Angie Janis***

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 4 of 10, December 2, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_04.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_04.pdf)).

P. 103 lines 19-25 and p. 104 lines 1-6:

**Q.** And though you were asked just a moment ago by Mr. Jackley about saying that Annie Mae Aquash had been tied up, you haven't always said that to law enforcement, have you?

**A.** No.

**Q.** Sometimes she's tied up, sometimes she isn't, correct?

**A.** Correct.

**Q.** Sometimes in front, sometimes in back, sometimes to a board, correct?

**A.** Yes.

**MR. MURPHY:** Nothing Further.

**Cross-Examination December 2, 2010 of State Witness Troy Lynn Yellow Wood**

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 4 of 10, December 2, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_04.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_04.pdf)).

P. 154 lines 3-6:

**Q.** Theda brought Anna to your house and she told you that she brought Anna to your house so you could protect Anna, correct?

**A.** For safe keeping basically, yeah.

P. 156 lines 24-25 and p. 157 line 1:

**Q.** You knew she was underground at the time she was at your house, correct?

**A.** She told me she was.

P. 158 lines 3-5:

**Q.** the FBI, those are the people she was trying to hide from, correct?

**A.** Yes.

P. 160 lines 16-18:

**Q.** she even went over to your parents' house and had a big Thanksgiving dinner with a lot of other people?

**A.** She did.

P. 175 lines 17-20:

**Q.** Let's talk about Anna's departure after the meeting. You were standing right there in the hall when Theda and John allegedly left?

**A.** Yes.

P. 176 lines 7-15:

**Q.** You had that opportunity to talk or she at least had an opportunity to say something to you?

**A.** Yes.

**Q.** And she was not tied up at that point was she?

**A.** No.

**Q.** In fact, at no time when she was in your house did you ever see her tied up, did you?

**A.** I never saw her tied up.

P. 177 lines 11-15:

**Q.** So you had a good opportunity to see her?

**A.** Yes.

**Q.** And you never saw her tied up on indications of her being tied up in the car?

**A.** I don't think she was.

**Direct-Examination December 2, 2010 of State Witness George Palfy**

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 4 of 10, December 2, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_04.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_04.pdf)).

P. 243 lines 12-25:

**Q.** And then what took place?

A. Then Theda pulled out some rope and I don't know if she told John Boy to tie her or if she tied her hands together. And I ask Anna Mae if she was okay with that and she said, it's okay. Just get it over with, let's go.

Q. Anna Mae's hands were tied together?

Q. In front or in back if you remember?

A. I remember in front.

Q. Do you know which one of them did the tying?

A. I can't say for sure, but I think it was Theda.

P. 244 lines 2-25:

Q. Then what happened after that?

A. So they put her in the back of the Pinto and Theda got in the Driver's seat and John got in the front seat and Ida Mae got in the middle seat and they took off.

Q. Now who is Ida Mae?

A. Theda's daughter.

Q. Now, at that point you never saw Arlo around there?

A. No.

Q. Did it strike you odd that she was being tied up?

A. Yeah, it did, but nobody seemed too worried about it.

***Cross-Examination December 2, 2010 of State Witness George Palfy***

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 4 of 10, December 2, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_04.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_04.pdf)).

P. 250 lines 22-24 and p. 251 lines 3-8:

Q. Now, once you get there you recall clearly that Anna Mae was in the basement, correct?

A. Yes.

Q. And she's not tied up at that point?

A. No.

Q. She's not being held captive?

A. No.

Q. There is nobody guarding her there, correct?

A. No.

P. 253 lines 2-8 and 25 and p. 254 lines 1-4:

Q. And you then walk with these folks – these folks meaning Theda and John and Ida Mae and Anna Mae out to the car, correct?

A. Yes.

Q. And you stay with them the entire time period as the car is being loaded up?

A. Yes.

Q. So there is no time period between when you leave the house and when you are standing there near the car for Arlo to insert himself in the crowd, correct?

A. Correct.

P. 255 lines 12-22:

Q. And now, today, you said you thought it was Theda who tied Anna Mae up outside, correct?

A. Yes.

Q. Well, on brief occasions you have said under oath that you were sure it was not my client, correct?

A. I believe so, yes.

Q. In fact, on previous occasions you have said I saw who tied Anna Mae up and it was Theda, correct?

A. Yes.

Q. So at least closer to the time of events you were sure that it wasn't my client who tied her up, correct?

A. Yes.

P. 263 lines 20-25 and p. 264 line 1:

Q. Why do you believe she was tied up?

A. Because she was tied up and put in the station wagon right in front of all of us.

Q. What was your reaction to that at the time?

A. I asked her, do you -- is this okay with you and she said don't worry about me. It's not a problem. She was -- she wasn't concerned about it.

***Recross-Examination December 2, 2010 of State Witness George Palfy***

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 4 of 10, December 2, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_04.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_04.pdf)).

P. 264 lines 6-10:

Q. When she drove away, Anna Mae Aquash was in the back seat of the car with Theda's 12 year old daughter Ida Mae?

A. No. Idea Mae was in the middle seat and Anna Mae was in the back of the station wagon.

***Direct-Examination December 6, 2010 of State Witness Arlo Looking Cloud***

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 6 of 10, December 6, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_06.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_06.pdf)).

P. 198 lines 24-25 and p. 199 lines 1-24:

Q. After the conversation, what did you see happening?

A. Theda asked for a rope.

Q. Did a rope show up?

A. Yes.

Q. Who had the rope at that point, you?

A. No, sir. Theda -- Troy Lynn. She asked Troy Lynn to get the rope.

Q. Then what happened?

A. She brought down a rope.

Q. Then what happened?

A. And John Boy tied her up.

Q. Were you present and you saw that?

A. Yes, sir.

Q. How did he tie her up?

A. He tied her hands.

Q. In front or the back?

A. Front.

Q. What happened then, Arlo?

A. And then we leave.

Q. When you left, did you go out the door of the back or the front?

A. The back door.

Q. Then where did you go once you got out the back door?

A. We went to Theda's car the Pinto.

**Cross-Examination of State witness Arlo Looking Cloud April 2010**

Richard Marshall Federal Court Trial, Rapid City, April 2010, Transcript.

P. 355 lines 7-12:

Q. You told the jury that the government has never made you any promises, is that right?

A. That's correct.

Q. Back in 1994, when you did your proffer session in Denver, weren't you told by the FBI Agent that if you said that you helped tie Anna Mae Aquash you would not be charged for that. Did they tell you that?

A. Yes.

**Cross-Examination December 6, 2010 of State Witness Arlo Looking Cloud**

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 6 of 10, December 6, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_06.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_06.pdf)).

P. 235 lines 2-4:

Q. You started brokering deals in this case all the way back in 1994, didn't you?

A. Yes, sir.

P. 239 lines 14-17:

Q. And that immunity agreement basically said you wouldn't get into trouble if you told them what they wanted to hear, right?

A. Yes, sir.

P. 240 lines 2-4 and 16-18:

Q. And you tell them that Aquash was never tied up; isn't that true?

A. I don't recall.

Q. Robert Ecoffey asked you, okay, did you guys tie her up? Your answer, no.

A. Yes, sir.

P. 241 lines 20-24:

Q. In fact, at that point you told Mr. Ecoffey and Mr. Alonzo, that John and Anna , Anna Mae were always together. You describe them as if they were friends, correct?

A. Yes sir.

P. 246 lines 12-16:

Q. And there scared for your life, you are asked to give all the details you can and at that point you are not worried about anybody else but yourself is that fair to say?

A. Yes.

P. 247 lines 1-3:

Q. You said that Anna Mae was not tied up, do you remember that?

P. 266 lines 23-25 and p. 267 lines 1-3:

Q. And what you told them is, I don't think she was tied up in a room. I don't know. I think she was talking to John -- John Boy. They asked, okay. You answer, they must have known each other. Is that accurate?

A. Yes.

P. 267 lines 21-24:

Q. And you told them ... that Anna Mae was not tied up during this event, right?

A. Right.

P. 280 lines 15-19 and lines 22-25, and p. 281 lines 1-5:

Q. Fourteen day's after you enter that immunity agreement, you go before a Federal Grand Jury. Do you recall that?

A. Yes, sir.

Q. For the first time in 14 years, through all the repeated times you told this story, suddenly you add major new details. Do you remember that?

A. Yes, sir.

Q. The first time in 14 years you indicated that Anna Mae was tied up. Do you remember that?

A. Yes, sir.

### ***Ligature Marks?***

#### ***Direct-Examination April 2004 of Government Witness Robert Ecoffey, Bureau of Indian Affairs, Criminal Investigator (BIA, CI)***

Arlo Looking Cloud Federal Court Trial, Rapid City, April 2004, Transcript  
(The transcript does not have line numbers.)

P. 415:

Q. Can you tell us what you observed about that photograph when you look at it?

A. One of the things, and I think it really points out on this photograph here, is what you can see is clear, ligature markings on the wrist.

Q. When you say ligature marking, what do you mean sir?

A. Where this individual was tied or bound. Right above the butterfly bracelet you can see clearly there is markings in a straight line inconsistent with the bracelet that was there that would indicate that she was tied up at the time of her death.

P. 416:

Q. What would be the significance of those ligature markings?

A. The significance would be that at the time she was shot and killed, she was tied up at the time.

Q. Why do you say that she would have been tied up at the time?

A. Because those are post mortem markings, means the heart stopped beating, the blood stopped flowing through her system, and those marks were left as a result of no blood going through her system at the time.

#### ***Cross-Examination April 2004 of Robert Ecoffey***

P. 439:

Q. You are not claiming to be any medical expert are you?

A. No I am not a medical expert.

Q. You don't have any training in medicine do you?

A. No. I don't.

Q. You don't have any training in the functions of the human body, do you?

A. No. I don't.

Q. You don't have any training in the chemical processes that occur in the human body, do you, sir?

A. No, I don't.

P. 440:

Q. You don't know for sure whether those are ligature marks do you?

A. I would say that it is.

Q. Are you aware of the fact that the pathologist who reviewed this body found no other indication of injuries other than one bullet hole?

A. What pathologist are you talking about?

Q. Talking about Dr. Gary Peterson?

A. Yes.

Q. Would you say that Dr. Peterson is in a better position to, since he actually viewed the body to determine what would be an injury and what would not?

A. The fact that the hands were not with the body when he did the second post mortem he couldn't tell whether the ligature markings were there or not.

Q. Well, he never told us that, do you know that sir?

A. I don't know that.

Q. When they cut the wrists and hands off the body it leaves what was not cut, would you agree?

A. That's correct.

Q. You say probably scratches from being drug in the weeds, is that what you are telling us?

A. That's correct.

Q. You don't know one way or another whether those are scratches from being drug in the weeds, do you sir?

A. I believe she was shot at the top of the bank, she was untied and pushed over the edge.

P. 442:

Q. you don't have any other evidence that indicate where the black markings came from, do you?

A. I believe they are consistent with the fact that we have testimony that she was tied up, and that that was from the rope or whatever they used to tie her up with.

Q. So that's your belief that you have arrived at through your years of experience and things of that nature?

A. That's correct.

### ***Cross-Examination April 2010 of Dr. Peterson***

Richard Marshall Federal Court Trial, Rapid City, April 2010, Transcript.

P. 771:

Q. Doctor, have you observed photographs in this case, crime scene photographs, of Anna Mae Aquash's hands?

A. I don't remember if I have or not, it's been so long. The hands came separately. Excuse me. I don't think there were any photographs available at the time I did the autopsy, as best I recall.

Q. Since then have you been asked to look at any photographs of her hands before they were removed?

A. I was shown a poor reproduction of one this afternoon. I don't have an opinion.

Q. You don't have an opinion whether any photographs you saw showed ligature marks, do you?

A. Yeah, I think if I had seen them I would have commented. I don't remember commenting.

### **Improper Relationships Between State Witness**

It's important to note the relationships to the lead investigator, and to each other. It is also important to note that myself and Anna Mae are the only outsiders being from Canada and not related to any of the witnesses.

**Memorandum of Law, Case# CR 08-50079. U.S. v. Graham and Marshall**

Prosecution witness Robert Ecoffey, (former U.S. Marshal, and, then Director of Law enforcement Services for the Bureau of Indian Affairs (BIA), while he was charged with Investigative and Supervisory responsibilities in the investigation into the murder of Anna Mae Aquash, entered into a ongoing personal and intimate relationship with a female cooperating witness in this case known by FBI code name "MAVERICK", and their intimate relationship violated rules and policies of the BIA prohibiting such relationships.

Such relationships are considered professional misconduct by law enforcement agencies, including the BIA, because they can and no compromise the objectivity of the investigation as well it's integrity.

Troubling and also at issue is such relationships are deemed inappropriate, and are generally forbidden for the duration of a criminal investigation expressly because they can and often do raise reasonable doubt about the truthfulness of the witness' testimony.

"In determining the weight to be given to testimony of a witness, you are authorized to consider their relationship to the parties, when the same is proved their interest, if any, in the event of action, their feelings or bias, if any has been shown, their demeanor on the stand, their means of information, and the reasonableness of the story told by them, and to give weight accordingly".

**Direct-Examination December 3, 2010 of State witness Darlene Nichols, Banks, Ecoffey, (Kamook)**

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 5 of 10, December 3, 2010 (129 pages, PDF, 1.51 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_05.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_05.pdf)).

Page 94 lines 6-12:

- Q.** Kamook are you married?  
**A.** Yes, I am.  
**Q.** Who are you married to?  
**A.** Robert Ecoffey.  
**Q.** Kamook, in the 1970s, were you involved with the American Indian Movement?  
**A.** Yes I was.

Page 94 line 25 and page 95 lines 1-14:

- Q.** Did you have a relationship back then with Dennis Banks?  
**A.** Yes, I did.  
**Q.** Please describe that relationship to the jury.  
**A.** I lived with Dennis Banks for 17 years from 1972 until April of 1989.  
**Q.** And did you have children with Dennis Banks?  
**A.** We have four children.  
**Q.** Did you know Annie Mae Aquash?  
**A.** Yes, I did know Annie Mae.  
**Q.** When did you meet her?  
**A.** I met Annie Mae when she came to Wounded Knee in 1973.

P. 97 lines 1-5:

- Q.** Do you remember when you would have first met Theda Clarke generally?  
**A.** In the early 70s. I also kind of knew her a little bit because her brother and my dad were really close friends.

P. 98 lines 10-20:

- Q. Kamook, did you know Arlo Looking Cloud back in that time frame?  
A. I knew who Arlo was but I didn't know him personally.  
Q. Did you know Troy Lynn Yellow Wood?  
A. Yes, I knew Troy Lynn.  
Q. How did you know Troy Lynn?  
A. Well, because Troy Lynn was always just around.  
A. Around various AIM activities?  
A. Yes.

***Cross-Examination December 6, 2010 of State Witness Kamook***

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 6 of 10, December 6, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_06.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_06.pdf)).

P. 10 lines 6-11 and 18-25, and p. 11 lines 1-3:

- Q. When did you meet Mr. Banks?  
A. In February of 1972.  
Q. How old would you have been then?  
A. Seventeen.  
Q. And he would have been how old about?  
A. Thirty-four.  
Q. So by the time you were at Wounded Knee together you were a couple?  
A. In 73, a year later, yes.  
Q. When did you have your first child with Mr. Banks?  
A. In August of 1974.  
Q. And then at the time of like the motor home incident, you were pregnant with your second child by him?  
A. Yes, I was.

***Cross Examination of State Witness Angie Janis April 2004***

Arlo Looking Cloud Federal Court Trial, Rapid City, April 2004, Transcript.  
(The transcript does not have line numbers.)

P. 231:

- Q. You have spoken with Robert Ecoffey several times about this haven't you?  
A. Yes.  
Q. You know Robert Ecoffey, don't you?  
A. Yes.  
Q. He is a relative to your present husband?  
A. Yes.  
Q. How long have you been married to your present husband?  
A. Fifteen years.

***Cross Examination of State Witness Angie Janis April 2010***

Richard Marshall Federal Court Trial, Rapid City, April 2010, Transcript.

P. 60:

Line 15:

- Q. And you worked for the BIA on Pine Ridge for what about 15 years?

**A.** About 18.

Line 18:

**Q.** And your boss over there is Bob Ecoffey?

**A.** Yes.

Line 20:

**Q.** Superintendent?

**A.** Yes.

**Vol. 4, p. 77:**

Line 8:

**Q.** And Mr. Ecoffey is presently your boss; is that true?

**A.** He's the superintendent of the BIA.

Line 13

**Q.** How long has he been in that position?

**A.** About three years maybe.

Line 16:

**Q.** And you're related to Mr. Ecoffey through marriage?

**A.** Yes.

Line 22:

**Q.** And you also have got some other connections to this case and to some of the instances. You had a child with Dennis Banks, correct?

**A.** Yes.

**P. 78:**

Line 4:

**Q.** So it would have been conceived either early 74 or 73?

**A.** Yeah, 73.

Line 14:

**Q.** And it was at the same time though that he was married at least common law to Kamook his wife?

**A.** Yes.

Line 17:

**Q.** And they had children together, too?

**A.** Yes.

**P. 85:**

Line 18:

**Q.** And at this time Mr. Ecoffey tells you that Troy Lynn accused you of trying prevent her from calling law enforcement on the night that Anna Mae Aquash was down in Denver?

**A.** Yes.

**P. 86:**

Line 13.

**Q.** Were you concerned that if that accusation was believed you might be charged with criminal activity?

**A.** No.

Line 17:

**Q.** because you didn't have any reason to believe Mr. Ecoffey was going to take any action?

**A.** No.

Line 20:

**Q.** you weren't worried about it?

**A.** No.

**P. 94:**

Line 2:

- Q. In any event, Mr Ecoffey came to you and essentially asked you, are you going to change your story again, and you said, no; is that fair to say?
- A. Yes.

**Direct-Examination December 2, 2010 of State Witness Troy Lynn Yellow Wood**

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 4 of 10, December 2, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_04.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_04.pdf)).

P. 105 lines 23-25 and p. 106 line 1-4:

- Q. Troy Lynn, who is Theda Clarke?
- A. Theda, she's my mother's oldest sister. She's my aunt. But in the Lakota tradition she is my mother as well.
- Q. Did you have a lot of interaction with Theda Clarke when you were younger?
- A. I did.

P. 119 lines 6-7, 10-11 and 18-20:

- Q. Could you tell us the circumstances on how Arlo showed up?
- A. I believe he came there looking for Joe Morgan who was another friend of ours to drink with.
- Q. So did you let Arlo in your house?
- A. I wouldn't have to let Arlo in. He would just come in if he was there.

P. 128 lines 12-13 and lines 17-24:

- Q. How would you characterize your testimony prior to this?
- A. I gave as little information as I possibly could.
- Q. Why?
- A. Because of Arlo -- because of my relationship with Arlo and my friendship with Arlo.
- Q. Was Theda still around you and in your life also?
- A. She was.

P. 141 line 10-15 and 21-25, and p. 142 line 1:

- Q. And you are saying that during those instances where you were asked to give information that you gave inaccurate information to protect Mr. Looking Cloud?
- A. I never gave inaccurate information. I just left pieces out.
- Q. And so your feelings about some outside consideration, in this case Mr. Looking Cloud, was something that you allowed to affect how you presented evidence or provided information to law enforcement or the Grand Jury?
- A. It affected it.

**Direct-Examination December 2, 2010 of State Witness George Palfy**

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 4 of 10, December 2, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_04.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_04.pdf)).

- Q. Did you ... know Troy Lynn?
- A. Yeah.
- Q. How do you know her?
- A. Through Pow Wows and stuff. My wife and her grew up together.
- Q. Your wife is from Pine Ridge?
- A. My wife is from Pine Ridge.

- Q. So she had known Troy Lynn for a long time?  
A. Uh-huh.  
Q. That's how the two of you got together?  
A. Yes.

***Cross-Examination December 6, 2010 of State Witness Arlo Looking Cloud***

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 6 of 10, December 6, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_06.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_06.pdf)).

P. 253 lines 5-7 and lines 10-25, and page 254 line 1:

- Q. Do you recall Troy Lynn Yellow Wood and Kamook coming to the jail to pick you up one day?  
A. Yes, sir I do.  
Q. Troy Lynn was a friend of yours, right?  
A. Yes.  
Q. And Kamook was a relative of yours? Kind of attenuated relative?  
A. No, sir.  
Q. Don't you remember Kamook telling you that you were half brothers with Richard Lee Lamont, right?  
A. Right.  
Q. And that she -- her mother was a Lamont, right?  
A. I guess.  
Q. Okay. And that -- that actually is right in the beginning of the interview. She establishes she has a family connection with you through the Lamonts. Do you recall that now?  
A. Yes, sir.

**Witness Tampering by the State**

***Cross-Examination December 6, 2010 of State Witness Arlo Looking Cloud***

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 6 of 10, December 6, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_06.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_06.pdf)).

P. 261 lines 9-22:

- Q. But back then, the year 2000, they tell you it's going to be your word against his and he's saying you committed the crime. That gets you mad, doesn't it?  
A. Yes, sir.  
Q. And you ask Kamook, how many people should I implicate, huh? And she tells you only John Boy, right?  
A. Yes.  
Q. And she further tells you she's the FBI informant. She's working with law enforcement. But she tells you, because it's going to come down to pretty much your word against his, right?  
A. Yes, sir.

P. 262 lines 2-4 and 8:

- Q. And the only person she wants you to implicate is John Graham, right? That's what she tells you, only John Boy?  
A. Okay, yes.

**Statement December 9, 2010 by Mr. Murphy, Lawyer for John Graham at the Jury Trial of John Graham**

Transcript from the Jury Trial of John Graham, December 1-10, 2010, Vol. 9 of 10, December 9, 2010 (267 pages, PDF, 3.13 MB, [https://www.grahamdefense.org/courtdocs/John\\_Graham\\_Trial20101201-10Vol\\_09.pdf](https://www.grahamdefense.org/courtdocs/John_Graham_Trial20101201-10Vol_09.pdf)).

**Mr. Murphy** (lawyer for John Graham)

P. 37 lines 15-21 and 23-25, and p. 38 lines 1-5:

The only John Boy statement. Recall with Kamook and Troy Lynn. Arlo, this drug-addicted, strung-out, career criminal, pathological liar, is there in the car and they are interviewing him and Arlo asks one question of Kamook. How many people should I implicate and Kamook's statement, only John Boy... In 23 Kamook, a person at that point who is working for the FBI -- she didn't want to admit that... Between 2000 and 2003, this woman gets paid 50 grand tax free to do ten interviews. Her husband is the U.S. Marshal. The lead investigator. The FBI is listening in on the recording device. She is an FBI employee at this point.

P. 38 lines 20-25:

I submit to you if I conducted myself with a witness, like Kamook did with Arlo, I would be charged with witness tampering. Telling a witness who to implicate. It's criminal. But that's the quality of evidence they want you to convict my client for murder on. You should be outraged.

P. 39 lines 1-4:

This is a 35-year investigation and they want you to find him guilty of two counts of murder when they have FBI employees telling witnesses who to finger.

– End –