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Organization: Peltier Legal Team  
Subject: Media Manipulation

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**INJUSTICE AGAINST LEONARD PELTIER:  
THE ROLE OF MEDIA MANIPULATION**  
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**Background**

Beginning in January 1975, the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, known as the "Church Committee" (named after its chairman Frank Church), took public and private testimony from hundreds of people, collected huge volumes of files from the Federal Bureau of Investigation (FBI) and many other federal agencies, and issued 14 reports.

Since the passage of the JFK Assassination Records Collection Act in 1992, over 50,000 pages of Church Committee records have been declassified and made available to the public. These files contain testimony and information on the FBI's counter-intelligence programs and related topics.

As discovered by the Church Committee and reported in 1976, the goals of the COunterINTELLigence PROgrams of the period from 1956 to the mid-1970s were to "expose, disrupt, misdirect, discredit, or otherwise neutralize" those persons or organizations that the FBI decided were "enemies of the State."

The COINTELPROs were designed to "disrupt" groups and "neutralize" individuals deemed to be threats to domestic security. The law – in particular, the U.S. Constitution – was simply ignored. There was a general attitude that intelligence needs were responsive to a higher law. According to the Church Committee: "Whatever opinion one holds about the policies of the targeted groups, many of the tactics employed by the FBI were indisputably degrading to a free society."

One of the most effective tactics used, as documented by the Church Committee, was the use by the Bureau of the media to not only impact on the public image of the FBI, but also to disrupt the public communication channels of targeted individuals and dissident groups, as well as spread mis-information about them so as to adversely affect public perceptions and attitudes.

***Examples:***

+ Planting a series of derogatory articles about Martin Luther King, Jr., and the Poor People's Campaign. In anticipation of the 1968 "Poor People's March on Washington, DC," Bureau Headquarters granted authority to furnish "cooperative news media sources" an article "designed to curtail success of Martin Luther King's fund raising." Another memorandum illustrated how "photographs of demonstrators" could be used in discrediting the civil rights movement. Six photographs of participants in the poor people's campaign in Cleveland accompanied the memorandum with the following note attached: "These [photographs] show the militant aggressive appearance of the participants and might be of interest to a cooperative news source." Information on the Poor People's Campaign was provided by the FBI to friendly reporters on the condition that "the Bureau must not be revealed as the source."

+ Soliciting information from Field Offices "on a continuing basis" for "prompt... dissemination to the news media... to discredit the New Left movement and its adherents." The Headquarters directive requested, among other things, that specific data should be furnished depicting "the scurrilous and depraved nature, of many of the characters, activities, habits, and living conditions representative of New Left adherents... Every avenue of possible embarrassment must be vigorously and enthusiastically explored."

+ Ordering Field Offices to gather information which would disprove allegations by the "liberal press, the bleeding hearts, and the forces on the left" that the Chicago police used undue force in dealing with demonstrators at the 1968 Democratic Convention.

+ Taking advantage of a close relationship with the Chairman of the Board – described in an FBI memorandum as "our good friend" – of a magazine with national circulation to influence articles that related to the FBI. For example, through this relationship, the Bureau: "squashed" an "unfavorable article against the Bureau" written by a freelance writer about an FBI investigation; "postponed publication" of an article on another FBI case; "forestalled publication" of an article by Dr. Martin Luther King, Jr.; and received information about proposed editing of King's articles.

As these instances demonstrate, the FBI has covertly influenced the public's perception of persons and organizations by disseminating derogatory information to the press, either anonymously or through "friendly" news contacts. The impact of those articles is generally difficult to measure, although in some cases there are fairly direct connections to injury to the target. Beginning immediately after the shoot-out at Oglala, in force during his trial, and continuing into recent history, this is particularly true in the case of Leonard Peltier. Yes, this tactic continues to be used against Peltier today.

## **Executive Clemency**

In 1993, Leonard Peltier requested Executive Clemency from then President Clinton. Peltier's petition was not seriously investigated or considered until the year 2000.

In 1999-2000, an intensive campaign was launched – supported by Native and human rights organizations, members of Congress, community and church groups, labor organizations, luminaries, and celebrities. The Peltier case became a national issue.

On November 7, 2000, during a live radio interview, Clinton stated that he would seriously consider Peltier's request for clemency and make a decision before leaving office on January 20, 2001.

In response, the FBI launched a major "disinformation" campaign in the media, and among key government officials and members of Congress.

Many citizens were highly disturbed by a number of public statements and actions by various FBI officers in 1999-2000. These officials, by the way, publicly announced that their one and only goal was to block the release of Mr. Peltier, whether through parole or clemency.

At the outset, the propriety of members of the Department of Justice (DOJ) engaging in such a public campaign was questionable. Parole and clemency decisions are largely determined at various branches of the Justice Department and neutrality and fairness in the handling of such matters must be above reproach. Having members of one branch of the Department engaged in vigorous lobbying on these matters (to Congress and the American people) certainly raised serious questions.

Many of the statements made by DOJ officials during the Peltier clemency campaign (and since) were false, intentionally misleading, or omitted highly relevant information with the intent of deceiving the public. Still other statements were highly emotional and dramatic, if not near hysterical, in nature. These constant declarations were clearly intended to misinform the public and create an atmosphere of fear and confusion, all with the goal of depriving Mr. Peltier of a fair and reasoned consideration of his legal requests for parole and clemency.

Most notable, in November 1999, during efforts by a number of Mr. Peltier's supporters to disseminate information and increase public awareness about his case, the Federal Bureau of Investigation Agents Association placed a large paid advertisement in the Washington Post. This ad intended to mislead the public and obstruct full and fair consideration of Peltier's parole and clemency requests with statements that were inappropriate, inaccurate, deceptive, and inflammatory.

Similar public statements were made by individual FBI agents, as well as the organizers of a Web site dedicated to denying a fair consideration of Mr. Peltier's requests for parole.

But nothing was more bizarre than the event of December 15, 2000. In an unprecedented event, over 500 FBI agents marched in front of the White House to oppose clemency for Leonard Peltier. The agents claimed to be exercising their First Amendment rights and argued they were acting as private citizens on their own time despite the fact that this march took place during standard business hours. FBI agents are law enforcement officers, it should be remembered. As such, they are generally considered to be always on duty. They also are officers of the court and on ethical grounds should have refrained from out-of-court communication, verbal or otherwise.

The marchers risked disciplinary action (which never materialized, despite the concerns of then Attorney General Janet Reno) for one purpose, we believe, i.e., to garner media attention. Indeed, the media paid special attention to the staged event, with segments airing on evening news programs of all the major television networks. There appeared to have been a news blackout, however, with regard to the event five days earlier when THOUSANDS of people marched in support of Leonard Peltier in front of the United Nations building in New York City.

All of the above tactics proved successful. Despite indications from the White House that clemency was imminent, on January 20, 2001, the list of clemencies granted by Clinton was released to the media. Without explanation, Peltier's name had been excluded.

### **Continuing Media Manipulation**

State ethics rules prohibit prejudicial statements by attorneys in a case. These rules apply in both state and federal court, and to prosecutors and defense attorneys alike. The Supreme Court in *Gentile v. State Bar of Nevada* noted that "[f]ew interests under the Constitution are more fundamental than the right to a fair trial by impartial jurors," and such ethics rules are necessary to uphold that right.

The American Bar Association's Model Rule 3.6, on Trial Publicity, sets the standard. It prohibits an attorney who is participating in a case investigation or litigation – as well as any lawyer in the same firm or government agency – from making an out-of-court statement that would have the substantial likelihood of prejudicing "an adjudicative proceeding" in the matter.

In early February 2004, a murder trial was held in Rapid City, South Dakota. Arlo Looking Cloud was charged in the murder of Anna Mae Pictou Aquash in 1976.

During the trial, it is true that the U.S. prosecutor refrained from making out-of-court statements. However, the majority of the testimony presented by the U.S. prosecutor during the four-day trial concerned the American Indian Movement (AIM), in general, and Leonard Peltier, in particular, and had no relevance to the government's case.

There is no ethics rule to prevent in-court statements. Reporters observing the trial were treated to a barrage of prejudicial information that served to sensationalize the proceedings. This clearly had an effect on jurors, but we believe the real target audience was the media and, by extension, the American public.

The style and content of the articles published by the media during the February trial of Arlo Looking Cloud were alarmingly similar to those published by the media at the request of particular FBI agents during Peltier supporters' campaign for Executive Clemency in 1999-2001.

Since the Looking Cloud trial, the media mentions about Peltier have increased, as well as highlighted and exaggerated the testimony given during the trial, to the extent that now it is claimed that Peltier may have ordered the murder of Annie Mae.

What the media does not report is that Leonard Peltier simply did not have the authority within AIM to order any such action. At the alleged time of the murder, Peltier was himself a prisoner in a Canadian prison and mostly isolated from the happenings in South Dakota. Leonard did not learn many of the details of Annie Mae's death until he was extradited to the United States in December 1976, nearly one year after her murder occurred. Leonard Peltier simply had nothing whatsoever to do with Anna Mae Aquash's murder.

## **Conclusion**

Nearly 30 years after the incident at Oglala, the FBI and government prosecutors still engage in vengeful acts. They carefully avoided out-of-court statements this past year, However, they did use actual court proceedings, primarily for the benefit of the media, to intentionally provide as fact false information to the public on AIM and Leonard Peltier. This has the effect of rewriting history with regard to AIM, in general, and Leonard Peltier, in particular, so as to prejudice the public against them. The sensational claims of witnesses – some of them paid informants – were widely reported in the press. As other prosecutions with respect to the Aquash murder are pending, such behavior has the appearance of having been done for the purpose of prejudicing the public against AIM in a state where anti-AIM sentiment and racism against Native Americans already runs very high. In our considered opinion, these actions have been taken to influence the outcome of pending federal prosecutions by potentially poisoning the jury

pool, as well as destroy support for Peltier and prevent his release on parole in 2008.