

## Background

The OIC's Report on the death of Vincent Foster is cited below as the "Report" or "OIC." Excerpts from it appear in Italics, except where they appear in the footnotes. An asterisk\* appears next to all exhibits that were not generated by the federal government.

### I. BACKGROUND

#### 1. Introduction

Those who saw Mr. Foster most and knew him best, his friends and colleagues, disagree on whether he displayed signs of depression in the weeks preceding his death. Most failed to notice anything unusual,<sup>6</sup> a few did,<sup>7</sup> and a few changed their minds.<sup>8</sup>

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<sup>6</sup> Exhibit 1, Report of FBI interview with Deputy Attorney General Webster Hubbell, April 14 & 15, 1994: "Hubbell said Foster was a great friend... He did not notice Foster acting differently in the days or weeks before his death... Hubbell said that he was not aware of any problems or difficulties Foster was experiencing prior to his death."

Exhibit 2, Report of FBI interview with Executive Assistant to Deputy Counsel Deborah Gorham, April 19 and 26, 1994: She viewed him as reserved, not depressed or unhappy. He would share a joke with others in the office, but was a very hard worker and would ask people "to keep it down" if their talking disturbed him. The only time he seemed to be more agitated than usual was when he was under time pressures. He had a very long fuse, so it was a rarity for him to show agitation... Even in hindsight, Gorham did not see anything in Foster's behavior which would indicate a distressed state of mind.

Exhibit 3, Report of FBI interview with Assistant Counsel at the White House Beth Nolan, June 7, 1994: "She saw him Monday, July 19, 1993 for just a few minutes and he did not seem distracted and handled the exchange normally. She said that she did not recall anybody ever remarking about Foster holding up or not holding up, and she did not herself notice any weight loss."

Exhibit 4, Report of FBI interview with Special Assistant to the President for Legislative Affairs Timothy J. Keating, June 12, 1994: "He said he dealt with Foster only on a "handful of matters... almost a daily basis... He described Foster as being 'very professional and a strong individual... together and on top of his game...'" Exhibit 5, Report of FBI interview with attorney John Phillip Carroll, May 17, 1994: "Carroll advised that Foster's suicide is a complete mystery to him." Exhibit 6, Deposition of Park Police Investigator John Rolla, July 21, 1994:

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"...I remember asking her [Mrs. Foster], did you see any of this coming, and she stated no. Nobody would say anything about depression or that they noticed some signs, they were worried. There was no information given to us."

Compare OIC, p. 99: Dr. Berman reported that "[m]istakes, real or perceived posed a profound threat to his self-esteem/self-worth and represented evidence for a lack of control over his environment. Feelings of unworthiness, inferiority, and guilt followed and were difficult for him to tolerate. There are signs of an intense and profound anguish, harsh self-evaluation, shame, and chronic fear..."

<sup>7</sup> Exhibit 7, Report of FBI interview of Associate White House Counsel William Kennedy, May 6, 1994: "He said Foster was drawn and frowned and was working too many hours. Foster was working on the run and he was working under stress, as most in the White House were... You could see someone beaten down, but those seeing it also were beaten down."

Exhibit 8, Report of FBI interview of Associate Attorney General of Legislative Affairs Sheila Anthony, April 28, 1994: In terms of changes in personal appearances, Anthony noted that Foster's face had become gray and drawn. \*\*\* Foster said that he was not yet ready to see a psychiatrist in Washington, D.C., but he told Anthony that he had called his physician in Little Rock and had gotten a prescription... To the best of Anthony's knowledge, Foster was not receiving any type of medical treatment.  
[redacted]

<sup>8</sup> Exhibit 3, Report of FBI of interview with Associate White House Counsel Beth Nolan, June 7, 1994: "She realizes in hindsight that he must have been upset about something." Exhibit 9, Report of Park Police interview of Beryl Anthony, July 27, 1993: "Mr. Anthony stated that he and his wife had noticed a gradual decline in Mr. Foster's general disposition to the point of depression."

Compare F. Murray, Foster Faced 'hard times' in Final Days, Wash. Times, July 23, 1993: "Close friends told him to cool things and relax and not take things so personal," the source said, citing Mr. Foster's ex-brother-in-law, former Rep. Beryl Anthony, as one who had talked to Mr. Foster about his depression. "There's not a damn thing to it. That's a bunch of crap," Mr. Anthony said yesterday, slamming down the telephone at his El Dorado, Arkansas home.

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In the delivery of his speech to the graduating class of University of Arkansas Law School, given May 8, 1993,<sup>9</sup> nine weeks before his death, some reported he looked healthy, both physically and mentally,<sup>10</sup> while others thought he looked pale, distraught, and tense.<sup>11</sup>

Many Americans have read or heard that Mr. Foster committed suicide because he was troubled by Travelgate, Waco and two *Wall Street Journal* editorials, that he had lost weight, that he had just started taking medication for depression, that a note was found,<sup>12</sup> and that he was suffering from depression.<sup>13</sup>

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<sup>9</sup> Exhibit 10, Transcript of Mr. Foster's speech to the University of Arkansas Law School, May 8, 1993: [360-3631] Following the bar exam, your most difficult test will not be of what you know but what is your character. Some of you will fail. The class of 1971 had many distinguished members who also went on to achieve high public office. But it also had several who forfeited their license to practice law. Blinded by greed, some served time in prison. I cannot make this point to you too strongly. There is no victory, no advantage, no fee no favor which is worth even a blemish on your reputation for intellect and integrity... The conviction that you did the right thing will be the best salve and the best sleeping medicine... Take time out for yourself. Have some fun, go fishing, every once in a while take a walk in the woods by yourself. Learn to relax, watch more sunsets... If you find yourself getting burned out or unfulfilled, unappreciated, or the profits become more important than your work, then have the courage to make a change.

<sup>10</sup> Exhibit 5, Report of FBI interview with Senior Rose Law Firm Partner John Phillip Carroll, May 24, 1994: "[A]t a commencement ceremony at the University of Arkansas Law School, Foster gave a splendid delivery with no stress showing during the speech." Exhibit 11, Report of FBI interview of Rose Law Firm Secretary Loraine Cline, May 25, 1994: "He [Mr. Foster] acted excited and 'up' and he looked good."

<sup>11</sup> Exhibit 12, Fiske Report, June 30, 1994: "Sheila Anthony [Assistant Attorney General for Legislative Affairs] recalls that during his address Foster's voice was unnaturally strained and tense, reminiscent of their father's voice when he was distraught during the period before his death in 1991."

<sup>12</sup> OIC, p. 106-107: At some point in the last week of his life, Mr. Foster wrote a note <sup>fn337</sup> that he had "made mistakes from ignorance, inexperience and overwork" and that he "was

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not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport." <sup>fn338</sup>

<sup>13</sup> See R. Marcus & AA. Devroy, *Clintons Mystified By Aide's Death*, Wash. Post, July 22, 1993; F. Murray, *Foster Faced 'hard times' in Final Days*, Wash. Times, July 23, 1993; *Depression symptoms difficult to hide*, Wash. Times, July 24, 1993; M. Isikoff, *Foster Had List Of Psychiatrist, Search Discloses*, Wash. Post, July 28, 1993; D. Jehl, *Clinton Sought to Cheer Aide*, Official Reports, N.Y. Times, July 28, 1993; D. Jehl, *Clinton Aide Appeared Depressed Before Death His Associates Say*, N.Y. Times, July 29, 1993; A. Devroy & M. Isikoff, Wash. Post, *Note Supports Idea that Foster Committed Suicide*, July 29, 1993; A. Devroy & M. Isikoff, *Handling of Foster Case is Defended*, Wash. Post, July 29, 1993; W. Pincus, *Vincent Foster: Out of His Element*, Wash. Post, August 5, 1993; S. Blumenthal, *The Suicide*, New Yorker Magazine August 9, 1993; J. Birnbaum, *Politics & Policy: White House Aide Listed Troubles In Shredded Note*, Wall St. Journal, August 11, 1993; M. Isikoff, D. Balz, *Foster Note Reveals An Anguished Aide Probe Concludes With Finding Note*, Wash. Post, August 11, 1993; David Von Drehle, *The Crumbling Of A Pillar In Washington, Only Clinton Aide Foster Knew What Drove Him To Fort Marcy*, Wash. Post, August 15, 1993; J. DeParle, *Portrait of a White House Aide Snared by his Perfectionism A Life Undone: A Special Report*, N.Y. Times, August 22, 1993; Michael Isikoff, *Probe Pursues White House Aide's Undisclosed Diary*, Wash. Post, December 18, 1993; J. Seper, *Clinton papers lifted after aide's suicide*, Wash. Times, December 20, 1993; K. Ball, *Hit Muckrakers They never doubted suicide of White House aide*, N.Y. Daily News, March 12, 1994; M. McAlary, *The Unfostered D.C. Suspicions, Aide's suicide is confirmed by heads-up cops*, N.Y. Daily News March 14, 1994; C. Sennott, *Foster 'Case Is Closed,' Parks Police Chief Says*, Boston Globe March 16, 1994; W. Styron, *'An Interior Pain That is All but Indescribable*, Newsweek Magazine, April 18, 1994; D. Jehl, *First Whitewater Report Pleases Clinton Advisors*, N.Y. Times, July 2, 1994; L. Hoffman, *Scripps Howard, Starr Apt To Second Ruling On Foster*, Wash. Times, January 6, 1995; E. Pollock & V. Novak, *There May Be Less to Whitewater Case than Meets the Eye*, Wall St. Journal February 22, 1995; M. Isikoff & M. Hosenball, *Picking up the Scent*, Newsweek, March 18, 1995; J. Stewart, *On the Road to Scandal*, Newsweek, March 18, 1995; E. Pollock, *Vince Foster's Death Is a Lively Business For Conspiracy Buffs*, Wall St. Journal, March 23, 1995; J. Seper, *Foster papers up first as Whitewater hearings open July*, Wash. Times, July 7, 1995; M. Isikoff, *The Night Foster Died*, Newsweek Magazine, July 17, 1995; M. McGrory, *Whitewater-Waco Weariness*, Wash. Post, July 20, 1995; James B. Stewart, *Blood Sport*; A. Lewis, *Ken Starr's Problem*, New York Times, February 21, 1997; Angie Cannon, *Whitewater Investigators Release Final Report On Suicide Of White House Counsel*, St. Paul Pioneer Press, October 11, 1997; LA Times Wire

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The record, as we said, is ambiguous on the depression. Mr. Foster was angry that Bill Kennedy was singled out for criticism in the Travel Office matter,<sup>14</sup> but did not appear to have feared Travelgate.<sup>15</sup> There is a

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Service, *Starr's Report Also Concludes That Foster Killed Himself*, Minneapolis Star Tribune, October 11, 1997; M. Morrison, *In Re: Vincent Foster*, Wall St. Journal, November 25, 1997.

<sup>14</sup> Exhibit 13, Report of FBI interview of Assistant to the President, Bruce Lindsey, June 22, 1994: At the initial meeting regarding the Travel Office, Vincent Foster was most defensive about William Kennedy's participation in the matter. Foster was very unhappy that Kennedy was reprimanded with regard to the travel Office matter... Foster was angry about the letters of reprimand. Kennedy was also very unhappy and Lindsey said he thought he remembered that Kennedy was feeling as though perhaps he should resign. Lindsey thought he remembered Foster's opinion being that if one person in the counsel's office received a reprimand then they should all receive letters of reprimand because they were all equally responsible and accountable for what occurred. Lindsey could not remember anything else Foster found disturbing...

Exhibit 7, Report of FBI interview of Associate White House Counsel William Kennedy, May 6, 1994: Kennedy was asked about Foster's view of Kennedy's involvement in the Travel Office matter. Kennedy said that Foster was very upset that Kennedy got reprimanded. Foster had been heavily involved and felt strongly regarding the FBI leaks in the case. Foster came to the conclusion that he couldn't trust anyone in Washington D.C. He was worried about Kennedy's emotional health.

Exhibit 14, Report of FBI interview with Associate Attorney General Webster Hubbell, June 7, 1994: "Foster expressed concern to Hubbell that he shouldn't have handed the matter off. Foster wanted to take responsibility. He was not happy that the FBI report had criticized Kennedy." Exhibit 3, Report of FBI interview with Associate Counsel at the White House Beth Nolan, June, 7, 1994: "She remembers that he was most upset about Kennedy having been reprimanded... [S]he does remember Foster's feeling that it would have been easier if he had been reprimanded also."

<sup>15</sup> Exhibit 14, Report of FBI interview with Associate Attorney General Webster Hubbell, June 7, 1994: "Hubbell advised Foster to get outside counsel if that was what he needed. Foster was trying to get Bernard Nussbaum, White House counsel, to hire

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record of one witness saying he was upset about Waco.<sup>16</sup> One witness reportedly said he was angered by the *Wall Street Journal* editorials,<sup>17</sup> but another said he joked about them.<sup>18</sup> While two of the eight who opined on the matter are said to have reported a weight loss,<sup>19</sup> most did not.<sup>20</sup> Actually, his

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outside counsel. Foster was never concerned for his personal exposure on the issue." Exhibit 15, Report of FBI interview with Director of White House Personnel David Watkins, June 22, 1994: "Watkins was much more emotional overall than Foster. Watkins never heard directly or indirectly that Foster was distressed about it [Travel Office], or about anything else for that matter."

Compare OIC, p. 106: The travel Office matter, in particular, was the subject of public controversy beginning in May 1993 and continuing through Mr. Foster's death. Criticism focused on the White House's handling of the matter before and after the May 19 firings... During the week of July 12, Mr. Foster contacted private attorneys seeking advice in connection with the Travel Office incident.<sup>fn336</sup>

<sup>16</sup> Exhibit 16, Report of FBI interview of Mrs. Lisa Foster, May 9, 1994: "The other [date redacted] occasion when Foster sounded choked up and tense were when the Branch Davidian complex near Waco, Texas burned..."

<sup>17</sup> Exhibit 2, Report of FBI interview with Executive Assistant to Deputy Counsel Deborah Gorham, April 19 and 26, 1994: "She saw him angry once, in response to the *Wall Street Journal* article..."

<sup>18</sup> Exhibit 3, Report of FBI interview of White House Associate Legal Counsel Beth Nolan, June 7, 1994.

<sup>19</sup> Exhibit 8, Report of FBI interview of Associate Attorney General for Legislative Affairs Sheila Anthony, April 28, 1994: Foster began to lose weight during the last six weeks prior to his death and weighed much less than he had weighed in January 1993. However, Anthony is unable to estimate the amount of weight Foster lost in terms of pounds. Foster did not mention to Anthony any problems with headaches, loss of appetite, indigestion or vomiting.

Exhibit 7, Report of FBI interview with Associate White House Counsel William Kennedy, May 6, 1994: "Kennedy replied that he knew Foster had lost weight but was unaware of any other

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autopsy weight was three pounds more than it had been six months earlier, in December of 1992.<sup>21</sup> The claim that he had just begun medication for depression is questionable.<sup>22</sup>

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symptoms." Compare Exhibit 12, Fiske Report, June 30, 1994: "[I]t was obvious to many that he had lost weight."

<sup>20</sup> Exhibit 16, Report of FBI interview with Mrs. Lisa Foster, May 9, 1994: "[S]he believed that most of the weight which Foster had lost by that time had been lost prior to his arrival in Washington, D.C." Exhibit 18, Report of FBI interview with attorney Susan Thomases, June 14, 1994: "She noted no change in his demeanor or physical appearance..." Exhibit 3, Report of FBI interview with Associate White House Counsel Beth Nolan, June 7, 1994: "She said that she did not recall anybody ever remarking about Foster holding up or not holding up, and she did not herself notice that there had been any weight loss." Exhibit 19, Report of FBI interview with Deputy Assistant to the President Nancy Henreich, June 12, 1994: "She said that while she can recall seeing no changes in Vincent Foster's physical [or] psychological presence, she does not feel comfortable making such judgements considering that their relationship was not particularly close." Exhibit 20, Report of FBI interview with Deputy Assistant to the President Marsha Scott, June 9, 1994: "She said that she personally didn't notice any weight loss." Exhibit 21, Report of Park Police interview with Executive Assistant to the Counsel of the President Betsy Pond, August 22, 1993: "There was nothing unusual about his emotional state. In fact, over the last several weeks she did not notice any changes, either physically or emotionally. She noticed no weight lost [sic]."

<sup>21</sup> Exhibit 22, Report of FBI interview with Dr. Larry Watkins, May 16, 1994: "His weight on December 31, 1992 was 194 pounds and Watkins made a note that he was on a diet and exercising." Exhibit 23, Report of Autopsy, July 21, 1993: "Weight 197" [2173]. Compare S. Blumenthal, *The Suicide*, The New Yorker Magazine, August 9, 1993: "But Foster's disequilibrium wasn't so well hidden from those closest to him. By early July, his friends had begun to notice changes in his appearance... He had lost fifteen pounds."

<sup>22</sup> Exhibit 24, Park Police handwritten note, author unknown, July 30, 1994: "7/30/93, Dr. Beyer Tox. Report ready... Trazadon[e] wasn't tested for and probably wouldn't show up." Exhibit 25, Virginia Division of Forensic Science Autopsy Lab Report, July 26, 1993, negative for presence of "tricyclic antidepressants" [includes Trazadone] "benzodiazepines" [includes Valium] OIC, p. 60: "The FBI Laboratory later conducted more sensitive testing and determined that the blood sample from Mr. Foster contained trazadone."<sup>fn174</sup> OIC, p. 60, fn. 175: "The Lab

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And some remarkable experts opine that the note, found torn up into 28 pieces six days after the death with no fingerprints on it, is a forgery.<sup>23</sup>

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also detected diazepam [valium] and nordiazepam [Trazadone] below recognized therapeutic levels. FBI Lab Report, 5/9/94, at 8." Exhibit 27, FBI Laboratory Report, Washington Metropolitan Field Office: "[O]ne plastic vial containing twenty nine tablets [Trazadone], date received May 25, 1994 [year after death], by SA Russell T. Bransford."

<sup>23</sup> \*Exhibit 28, Opinion of Reginald E. Alton, Oxford University Emeritus Fellow and lecturer on detection of forgery (ruled on C.S. Lewis, Oscar Wilde, Donne, Shelley, and Christina Rosetti), September 18, 1995: Q 1 [questioned document - torn note] is a forgery related to K 1 to K 12 [exemplars]... Foster seems to have been a natural 'swagger'... The writer of Q 1 is aware of this habit but he fails to match Foster's usage or elegance... Even more revealing is... the word benefit, Q 1 (1.8 and 1.10) as compared... Foster is a habitual writer of counter-clockwise loops or circles... In Q 1 the loops in this ligature either do not exist or are a mere thickening of the ascender of h. The writer of Q 1 is generally uneasy about joining one letter to the next... This sort of failure is characteristic of forgeries... In contrast the hand of Q 1... imitates letters and words from the K group it fails to understand how they are made.

Compare OIC, p. 107, fn. 338: In this matter, Mr. Lesnevich compared the original note to four original pages of known writing of Mr. Foster that were in his office at the time of his death; to one other original page of paper that was known to have been written by Mr. Foster; and to 18 original checks bearing the known writing of Mr. Foster. Mr. Lesnevich concluded that the written text on the note "contained normal, natural and spontaneous writing variations. These normal, natural and spontaneous writing variations could be found in the letter formations, beginning strokes, ending strokes, connecting strokes, etc." Lesnevich Report at 2. He further concluded that "examination and comparison of the questioned written text appearing on the note with the known writing on the [known] documents has revealed that the author of the known documents wrote the note." Id. (reference numbers omitted). Mr. Lesnevich prepared a thorough 51-page comparison chart "that points out and illustrates a number of the normal, natural and spontaneous writing habits that were found common between the written text appearing on the questioned note and the known handwriting of Vincent Foster found on the [submitted known] documents. Id. at 3.

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The majority of the state of mind evidence, reflecting what many Americans have read or heard, is set forth in the notes above. In light of the physical evidence in the case, whether the depression verdict is mostly fact or fiction (a problematic issue) is not relevant to the issue of whether Mr. Foster died at his own hand at the park.

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Exhibit 29, US Capitol Police Identification Section Report, Sergeant Larry G. Lockhart, July 29, 1993 (failing to identify characteristics for conclusion): "Both the Known and Questioned Documents were completed by the same author/writer and that writer/author is known as Vincent W. Foster." \*Exhibit 30, Affidavit of Reed Irvine re interview with Sergeant Lockhart, April 23, 1997 (Sergeant repudiated his July 29, 1993 conclusion when unknowingly given same words from both the exemplar and the note).

Exhibit 31, FBI Lab Report handwriting analysis, June 17, 1994: It was determined that the handwriting on the previously submitted note designated Q29 in the Laboratory report dated May 9, 1994 (Lab #40324038 S/D QV ZG WK UD AL QW ZT VY ZZ and AR) was written by VINCENT FOSTER, whose known writings are designated K4 (previously submitted and assigned Lab #40525017 S/D QV ZG UD and VY), K5 (previously submitted and assigned Lab #40602045 S/D QV UD) and K6 (assigned Lab #40617025 D UD).

\*Exhibit 32, Opinion of Vincent J. Scalice, October 6, 1995 (re May 17, 1994 FBI Lab analysis above): [It is] an unsuccessful attempt to produce a credible forgery... The use of a single document and a series of checks alleged to have been written by Vincent Foster by the FBI's Questioned Document section is not consistent with standard forensic examination. \*\*\* Q-1 appears to be a forgery\*\*\*

Compare [omitting May 17 FBI Lab Report] OIC, p. 107, fn. 338: At the request of the OIC, the FBI Laboratory compared the original note to four original pages of known writing of Mr. Foster that the OIC had obtained from the documents that were in Mr. Foster's office at the time of his death. The Laboratory determined that the note and these four sheets were written by the same person (Vincent Foster). FBI Lab Report, 11/9/95, at 1.

## Events surrounding the death

### 2. The record of events surrounding the death

#### a. Before July 20, 1993

Mr. Foster arrived in Washington in January of 1993. He first stayed with his sister. After a few months, he rented temporary quarters and lived with his college-aged daughter. His wife, Lisa, arrived in June with the younger son, having both stayed in Little Rock for the completion of his junior year of high school there. His elder college-aged son also arrived in June. They lived in a Georgetown townhouse, 3027 Cambridge Place. "There were no domestic problems between Lisa Foster during the entirety of their twenty-five year relationship."<sup>24</sup>

Mr. Foster was part of the core group of longtime Clinton friends and supporters. They included Mr. Webster Hubbell, former law partner of Mrs. Clinton and then deputy Attorney General, and Marsha Scott, deputy assistant to the President. Associate White House Counsel William Kennedy worked at the Rose Firm, both before and after serving a stint as Counsel to the Senate Appropriations Committee under Senator John McClellan in 1977. David Watkins served as Director of White House Personnel. Bruce Lindsey was (and is) Assistant to the President. Mack McClarty served as White House Chief of Staff. Mr. Foster's sister, Sheila Anthony, was Assistant Attorney General for Legislative Affairs, and in 1993, her husband, former Arkansas Congressman Beryl Anthony, worked as a lobbyist.

Susan Thomases knew Mr. Foster for 17 years, since 1976. The FBI report of its interview with her reflects that she last saw him on Wednesday, July 13, when "they had lunch together with some other people from Washington. She recalls him mentioning he had planned to take a weekend trip to the Eastern Shore of Maryland. She noted no change in his demeanor or his physical appearance but was aware that he was working very hard and was under considerable pressure. His death came as a complete shock to her and she can offer no reason or speculate as to why he may have taken his life."<sup>25</sup>

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<sup>24</sup> Exhibit 16, Report of FBI interview with Mrs. Lisa Foster, May 9, 1994.

<sup>25</sup> Exhibit 18, Report of FBI interview with Susan Thomases, June 6, 1994.

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Associate Legal Counsel Beth Nolan's FBI interview report noted that as of Friday morning, "his mood had lifted a little in the last couple of days of his life and she bases that on some joking around that had occurred during the previous Friday [July 16] staff meeting."<sup>26</sup>

Before leaving his office for home shortly before 4:00 on Friday, Mr. Foster checked out a long-range beeper<sup>27</sup> to take with him for his weekend trip with Lisa to the Eastern shore of Maryland. (It may have been the same beeper that was clipped to his waist when his body was found four days later.<sup>28</sup>)

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Compare James Stewart, Blood Sport, 1996: On July 11, Foster was again complaining to his wife about the travel office... She [Thomases] was worried about Foster. As someone who saw him less, the change in his appearance and demeanor was more noticeable.\*\*\* Now [July 13] she tried to reassure Foster, but he said he needed to talk to her "off the campus," somewhere they wouldn't be seen. Thomases suggested 2020 "O" Street, a private rooming house where she herself sometimes stayed in Washington. When Foster arrived that evening, Thomases thought he looked a little better... But then he began to unburden himself. He mentioned how overworked he was and how he lacked the time and the support staff he was used to in Little Rock. If he didn't get more help, he said, he was afraid he'd "let the President and Hillary down... And he indicated he was homesick, not just for Little Rock, but for the quieter, predictable life he had there. But then the conversation took a curious turn. One thing he had not missed about his life in Little Rock was Lisa, his wife. The marriage had not been what he'd hoped for, and it hadn't been for years. He had to make all the decisions in the family. She was completely dependent on him, and this had become a burden. He found he couldn't confide in her. Lisa's recent arrival in Washington had brought this to the fore, just when Foster himself needed someone to lean on... Foster seemed... infinitely sad.

<sup>26</sup> Exhibit 3, Report of FBI interview of White House Associate Legal Counsel Beth Nolan, June 7, 1994.

<sup>27</sup> Exhibit 2, Report of FBI interview with Executive Assistant to Deputy Counsel Deborah Gorham, April 19 and 26, 1994.

<sup>28</sup> Exhibit 33, Testimony before United States Senate by Park Police Investigator John Rolla, July 29, 1994: Well, let me explain it to you. You go on the scene, you observe the facts that are there, and the facts that are there was that

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"Lisa Foster made all the arrangements for the weekend and asked Foster to be home by 3:00 p.m. that Friday, July 16, 1993. Instead, Foster arrived home at approximately 4:00 p.m., and she and Foster had to drive through terrible traffic to reach the Inn."<sup>29</sup>

*The Weekend.* The Fiske Report describes as "coincidence" that Mr. and Mrs. Foster were spending the weekend at an the Tidewater Inn on the Eastern Shore of Maryland when Mr. and Mrs. Hubbell were staying fifteen minutes away with Nathan Landow and his son-in-law Michael Cardozo.<sup>30</sup> (Mr. and Mrs. Cardozo in separate interviews

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this was an apparent suicide. Not one fact then or has ever come forward since then to this day to say it was anything other, anything sinister, anything other than a suicide. With that in mind, a pager, the White House credentials on the pager were recorded, at least the pager was. I do not remember if I recorded the White House credentials because obviously I am going to give them back to the Secret Service. They may have been Xeroxed. The pager brand was recorded, the name brand, the serial number was recorded, the pager was turned off. As far as any information on the pager, he could have turned it off at any time, and if anybody paged him while it was off, that does not tell me anything. If they paged him after he killed himself, it does not tell me anything. It does not tell me what time he turned it off because he could have had his last page 20 to 30 minutes before he turned it off. If it turned out something crazy, that it was a homicide, the FBI could have taken my report and the serial number to the pager company and subpoenaed the pager records and got all the calls that were paged to him that date. We turned it over to the Secret Service, yes, any property that belongs to the White House United States Government, the credentials and the pager, a matter of security, yes, it is proper procedure. I called them up, they wanted to come down and get it, and I turned it over to them after I recorded the information that I needed to get from it. I had no further use for it, because there was nothing to say that this was anything other than a suicide.

<sup>29</sup> Exhibit 16, Report of FBI interview with Lisa Foster, May 9, 1994.

<sup>30</sup> Exhibit 12, Fiske Report, June 30, 1994: "Coincidentally, Webster Hubbell and his wife were also on the Eastern Shore of Maryland for the weekend staying with friends, Michael and Harolyn Cardozo, who also knew the Foster's."

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reportedly told the *Washington Post* that the weekend had been planned for more than a week.<sup>31</sup>) Mr. Cardozo had been Deputy White House Counsel in the Carter Administration,<sup>32</sup> the same position that Mr. Foster held at the White House. Mr. Cardozo had also had spent four months at the DOJ during the early days of the Clinton Administration.<sup>33</sup>

Evidence shows that Mr. Hubbell knew where the Fosters were staying from a telephone conversation he had with Mr. Foster on Friday, July 16, 1993.<sup>34</sup> The Fosters and the Hubbells spent Saturday and Sunday at the Landow Estate.<sup>35</sup> Other weekend guests at Mr. Landow's home included Nick Boliterra and Pam Shriver, who played tennis with Mrs. Foster. There is no record of Mr. Landow, the Cardozos or others present at the Landow Estate besides Mrs. Foster or Web Hubbell ever being interviewed about the weekend.<sup>36</sup>

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<sup>31</sup> A. Devroy & M. Isikoff, *Wash. Post*, *Handling of Foster Case is Defended*, July 30, 1993: "In separate interviews yesterday, Harolyn Cardozo and Michael Cardozo said the weekend had not been designed to cheer up Foster, but had been planned more than a week before as a means for everybody concerned to get a break from the stress of their Washington jobs."

<sup>32</sup> Exhibit 1, Report of FBI interviews of Associate Attorney General Webster Hubbell, April 13 & 15, 1994.

<sup>33</sup> Exhibit 1, Report of FBI interview of Webster Hubbell, April 13 & 15, 1994.

<sup>34</sup> Exhibit 1, Report of FBI interviews of Webster Hubbell, April 13 & 15, 1994: Hubbell was asked about the weekend before Foster's death. He explained that he and his wife were supposed to go to dinner with the Fosters on Friday evening, but that Foster had called him (Hubbell) in Miami and said that he and his wife were planning to go to the Eastern Shore.

<sup>35</sup> Exhibit 1, Report of FBI interviews of Webster Hubbell, April 13 & 15, 1994.

<sup>36</sup> See *Wash. Post*, January 26, 1978: *DC Gambling Kingpin is Linked to Prominent Investors' Casino Deal*, January 26, 1978: Two prominent Washington investors [Nathan Landow and Smith Bagley] with connections to the Carter administration were involved in a proposal to build a hotel and gambling casino in Atlantic City, with Washington gambling kingpin Joe Nesline as a consultant. Nesline's involvement with the casino venture became known Jan 14

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Webster Hubbell, close friend and law partner of Mr. Foster's at the Rose Law Firm, was the only person present who was questioned, other than Mrs. Foster. He mentioned the weekend only briefly.<sup>37</sup>

*Sunday.* Although Mr. "Foster had not made specific plans for the [following] weekend... [h]e had spoken with Lisa Foster about trying to go to Pennsylvania... but had not made any reservations..."<sup>38</sup> He told Jim Lyons, a Denver lawyer and advisor, who he spoke to on Sunday evening, that "he had a great weekend and agreed that he ought to do it

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when federal and local police raided Nesline's Bethesda apartment... FBI agents seized a file containing and memoranda spelling out a proposed \$85 million deal involving Bagley and Landow... [It] was not the only gambling venture in which Nesline had been involved with Landow... Involved in the St. Marten venture were Landow and Edward Cellini, a brother of Dino Cellini, a former associate of organized crime figure Meyer Lansky... In November... [t]he party at [the] Landow home was observed by Montgomery County plainclothesmen, who took down license plate numbers of guests' cars. Officers of the county's organized crime section have had Landow under surveillance for nearly a year. They learned from Florida police that Landow had an interest in a now defunct corporation whose concealed owners allegedly included an identified member of the Carlo Gambino Mafia "family." Secret Service agents who were at the party to protect the president's son, questioned the Montgomery County plainclothesmen who explained their interest in Landow. \*\*\* Landow said the meeting actually took place in the hallway outside the Senate Appropriations Committee chamber... [T]he committee's chairman [was] the late Sen. John L. McClellan... \*\*\* [The] business involvement of Landow that originally attracted the attention of Montgomery County's organized crime unit was an investment in Quaker Masonry... Florida law enforcement authorities reported to other police agencies in October of 1973 that Anthony Plate known to them to be an associate of the Gambinos, was believed to have a 25 percent interest in Quaker.

<sup>37</sup> Compare: OIC, p. 100: "Dr. Berman said that Mr. Foster's "last 96 hours show clear signs of characteristic vulnerability."

<sup>38</sup> Exhibit 16, Report of FBI interview with Mrs. Lisa Foster, May 9, 1993.

## Events surrounding the death

more often. They [also] confirmed that Lyons was coming to Washington, D.C. the following Wednesday, July 21, 1993."<sup>39</sup>

*Monday.* The FBI's report of its interview with associate Legal Counsel Beth Nolan reflects that "[s]he saw him [on] Monday, July 19, 1993 for just a few minutes and he did not seem distracted and handled the exchange normally."<sup>40</sup> Director of White House Personnel David Watkins saw Foster at 11:00 am on Monday, July 19, 1993 as Foster was entering the White House. Foster stopped Watkins as they were passing one another to pass on regards to Watkins from Pam Shriver whom he had recently met. Foster's demeanor was cheerful."<sup>41</sup>

One of Mr. Foster's sisters, Sheila Anthony, called to ask how the weekend had gone.<sup>42</sup> Mr. Foster told her that he had a great weekend. Sheila served as Assistant Attorney General for Legislative Affairs in the Justice Department and lived in Washington with her husband former Arkansas Congressman Beryl Anthony. Mr. Foster's other sister, Sharon Bowman, along with her daughter, had just arrived for a visit from Arkansas, and was scheduled to have lunch with Mr. Foster on Thursday, July 22.<sup>43</sup>

Marsha Scott, longtime Deputy Assistant to the President and Director of Presidential Correspondence, told the FBI that her relationship with Mr. Foster was a

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<sup>39</sup> Exhibit 35, Report of FBI interview of James M. Lyons, May 12, 1994.

<sup>40</sup> Exhibit 3, Report of FBI interview of Beth Nolan, June 7, 1994.

<sup>41</sup> Exhibit 15, Report of FBI interview with Director of White House Personnel David Watkins, June 22, 1994.

<sup>42</sup> Exhibit 8, Report of FBI interview of Associate Attorney General of Legislative Affairs Sheila Anthony: "Lisa Foster came to Washington, D.C. permanently in mid to late May 1993. On July 19, 1993, possibly in the morning, Anthony called Foster. Foster stated that he was feeling good that the weekend had gone pretty well."

<sup>43</sup> Exhibit 36, Mr. Foster's calendar, Park Police file: "July 22, 1993, 1:15 p.m., Sharon lunch"

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"personal friendship,"<sup>44</sup> having known him since 1967. Ms. Scott's office was in the Old Executive Office Building.<sup>45</sup> She related that she met with Mr. Foster on July 19, 1993 in his White House office. That meeting lasted over an hour. Linda Tripp, one of Bernard Nussbaum's Executive Assistants, told the FBI this was "highly unusual."<sup>46</sup>

Ms. Scott first told the FBI that "[s]he does not remember what topics they talked about"<sup>47</sup> the last time she saw her friend of 25 years who died the next day, but that "he did not appear distracted or distressed."<sup>48</sup> She later told the FBI that she had stopped by to ask him how the weekend on the Eastern Shore of Maryland had gone.<sup>49</sup>

Webster Hubbell also stopped by Mr. Foster's office. He reportedly told the FBI he could not remember the

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<sup>44</sup> Exhibit 37, Report of FBI interview report of Deputy Assistant to the President Marsha Scott, May 12, 1994.

<sup>45</sup> Exhibit 20, Report of FBI interview of Deputy Assistant to the President Marsha Scott, June 9, 1994.

<sup>46</sup> Exhibit 38, Report of FBI interview of Executive Assistant Linda Tripp, April 12, 1994: Marsha Scott, Deputy Assistant to the President and Director of Presidential Correspondence, came to see Foster for a closed-door session that lasted over an hour, possibly as long as two hours. This was highly unusual, both her coming to see him and anyone taking up that much time with Foster.

<sup>47</sup> Exhibit 37, Report of FBI interview of Deputy Assistant to the President Marsha Scott, May 12, 1994.

<sup>48</sup> Exhibit 20, Report of FBI interview with Deputy Assistant to the President Marsha Scott, June 9, 1994: He loved being a lawyer and she along with others just couldn't believe that he would have taken his own life without having reached out to his friends. She said that during the meeting on July 19, he did not appear distracted or distressed. She explained that Foster could be very focused when he was involved in something and she knew that she had interrupted his train of thought when she entered the room but he didn't give her an indication that she came at a bad time, otherwise, she would have left. They did not, however, have a heart-to-heart talk...

<sup>49</sup> Exhibit 20, Report of FBI interview report of Deputy Assistant to the President Marsha Scott, June 9, 1994.

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"business matters discussed, if any, but does remember discussing the previous weekend the Foster and Hubbell families had spent together."<sup>50</sup>

Reportedly, at sometime around mid-day on Monday, Mr. Foster called his Little Rock physician and friend of fifteen years, Larry Watkins. The FBI's interview report of Dr. Watkins reflects that Mr. Foster complained of trouble sleeping, as he had confided to Web Hubbell.<sup>51</sup> Dr. Watkins prescribed Desyryl, apparently for insomnia and not for depression. It is prescribed for both. The FBI's version is that it was for depression, but Dr. Watkins told the FBI that "[h]e did not think that Foster was significantly depressed nor had Foster given the impression that he was 'in crisis.' From what Foster told him, Foster's condition sounded mild and situational."<sup>52</sup> The doctor had prescribed Mr. Foster insomnia medication before, probably in December, seven months earlier.<sup>53</sup>

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<sup>50</sup> Exhibit 1, Report of FBI interview of Associate Attorney General Webster Hubbell, April 13, 1994.

<sup>51</sup> Exhibit 1, Report of FBI interview with Deputy Attorney General Webster Hubbell, April, 13 and 15, 1994: "He said, however, that both he and Foster had confided in each other about sleep difficulties."

<sup>52</sup> Exhibit 22, Report of FBI interview with Dr. Larry Watkins, May, 16, 1994: [W]atkins knew that it took 10 days to two weeks to take effect but helps with insomnia, sometimes the very first day. He felt it was very important for Foster to start sleeping better and thought if he got some rest that he would feel a lot better. He did not think that Foster was significantly depressed nor had Foster given the impression that he was "in crisis." From what Foster told him, Foster's condition sounded mild and situational. Watkins advised that he was only a little bit alarmed in that Foster had insisted on talking to him directly instead of discussing things through his nurse.

<sup>53</sup> Exhibit 16, Report of FBI interview of Mrs. Lisa Foster, May 9, 1993: "In terms of other drugs which may have been prescribed for Foster in the past, Lisa Foster is aware of the sleeping pill Restoril having been prescribed. She also recalls that an antibiotic was prescribed for Foster in approximately December, 1992."

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"On the evening of July 19, 1993 Lisa cooked dinner at home. When Foster returned home from work, he came into the house [and] smiled at Lisa Foster while saying that a quarter to eight was not bad. Lisa Foster responded to him that she was thinking he would be home at 6:30 or 7:00 p.m." <sup>54</sup>

The President testified that on the evening of Monday, July 19, he called Mr. Foster at home.<sup>55</sup> Hubbell and Lindsey were with the President when he placed the call.<sup>56</sup> Among the reasons for the call was that the President wanted to know, like Sheila Anthony and Marsha Scott, how the weekend in Maryland with Hubbell and "another couple" had gone. The President also claimed that he had heard Mr. Foster was "down" about the Travel Officer matter, and telephoned to invite him to watch a movie at the White House,<sup>57</sup> "In the Line of Fire," with Hubbell and Lindsey. (The normal "movie night" at the White House was Friday,<sup>58</sup> not Monday.) The President testified that "[i]t was a time of high stress for the Counsel's Office because of the White House travel office matter and other things."<sup>59</sup> Mr. Foster declined, according to Mr. Clinton, because he was home with his wife and wanted to stay there.<sup>60</sup>

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<sup>54</sup> Exhibit 16, Report of FBI interview of Mrs. Lisa Foster, May 9, 1994.

<sup>55</sup> Exhibit 40, Deposition of President Clinton by Robert Fiske and deputy regulatory Independent Counsel Roderick Lankler, June 12, 1994: "Yes. When I called him, I thought he might still be at work but it was in the evening. I don't remember exactly what time it was, but it was already night."

<sup>56</sup> Exhibit 40, Deposition of President Clinton, June 12, 1994.

<sup>57</sup> Exhibit 40, Deposition of President Clinton, June 12, 1994: "But he said -- first I asked him if he wanted to come to the movie."

<sup>58</sup> Exhibit 13, Report of FBI interview of Assistant to the President Bruce Lindsey, June 22, 1994.

<sup>59</sup> Exhibit 40, Deposition of President Clinton, June 12, 1994.

<sup>60</sup> Exhibit 40, Deposition of President Clinton, June 12, 1994: "And he said that he would like to, but that he was already home with Lisa and he didn't think he should leave and come back to the White House. I understood that."

## Events surrounding the death

The President then requested to see Mr. Foster.<sup>61</sup> The two men scheduled to meet Wednesday, July 21, to discuss, according to the President, unspecified "organizational changes" being contemplated at the White House.<sup>62</sup> According to the President's testimony, if the organizational changes involved Mr. Foster himself, Clinton was unaware of it. He denied being among those who reported to have known that something was disturbing Mr. Foster, that he was depressed<sup>63</sup> or that he was considering resigning.<sup>64</sup>

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<sup>61</sup> Exhibit 40, Deposition of President Clinton, June 12, 1994: Then I told him I wanted to talk to him about some matters relating to the White House and I wanted to ask his advice on some organizational issues, but that I could not see him the next day because we had the announcement of Mr. Freeh, the FBI Director, and several other things on my schedule, and could we please meet on Wednesday. And he said, yes, I have some time on Wednesday and I will see you then.

<sup>62</sup> Exhibit 40, Deposition of President Clinton, June 12, 1994.

<sup>63</sup> Exhibit 40, Deposition of President Clinton, June 12, 1994: "Q. would you have heard from him or anyone else that he was depressed? A. No. Not depressed. Now again leading up to the day -- Q. Right. A. -- when I talked to him, I knew that he had been concerned about these things that I mentioned earlier. But I wouldn't use the word 'depressed'."

<sup>64</sup> Exhibit 40, Deposition of President Clinton, June 12, 1994: Q. We'll get there in just a minute. Was there anything else that you heard, right up to that phone conversation on the 19th that -- [question interrupted] A. No. Q. -- might be disturbing him? A. No. Q. Had you ever heard that he was thinking of resigning his job? A. No.

Exhibit 8, Report of FBI interview of Deputy Attorney General of Legislative Affairs Sheila Foster Anthony, April 28, 1994: "At the last dinner which Foster shared with Anthony, Foster confided to her that he was considering resigning from his post at the White House."

Exhibit 7, Report of FBI interview of Associate White House Counsel William Kennedy, May 6, 1994: Normal politics in RLF and feelings of abandonment were there but it didn't rise to the level where Foster thought he couldn't go back. Kennedy was asked if he observed any noticeable behavioral or emotional changes in Foster. \*\*\* [H]e did not recall in conversations with Foster that he [Foster] wanted to go

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**b. Tuesday, July 20**

As he left for work, Mr. Foster asked Mrs. Foster about her schedule for the day, which she characterized as an "unusual" question.<sup>65</sup> It was the middle of the summer. He arrived at his White House office about 8:50 a.m.,<sup>66</sup> in time for the 9:00 Office of Legal Counsel staff meeting.

That morning in his White House office, Mr. Foster wrote a letter to his mother, and mailed it roughly six hours before he died.<sup>67</sup> Mr. Foster's sister, Sheila Anthony, was with her mother when she opened it. "The letter from Foster concerned oil leases which had been

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back [to the Rose Law Firm]... Kennedy did recall Foster making one comment to him in the second week of June saying "he (Foster) was thinking of finding a job with less pressure." Another job in the administration with not so much distress.

Exhibit 1, Report of FBI interview with Associate Attorney General Webster Hubbell, April, 13 & 15, 1994: [N]ewspaper accounts concerning the previous administration's removal office items was determined by Hubbell as accurate. Hubbell said that he was not aware that Foster was experiencing any type of stress. Foster never talked to Hubbell about missing the comfort zone of the Rose Law Firm where they had worked for more than 20 years.

Compare OIC, p. 99: "Dr. Berman reported that... He, furthermore, faced a feared humiliation should he resign and return to Little Rock."

<sup>65</sup> Exhibit 16, Report of FBI interview of Mrs. Lisa Foster, May 9, 1994.

<sup>66</sup> Exhibit 2, Report of FBI interview of Executive Assistant Deborah Gorham, April 19, 1993.

<sup>67</sup> Exhibit 38, Report of FBI interview of Executive Assistant Linda Tripp, April 12, 1994: Gorham told Tripp that the morning of his death, much earlier than his leaving, Foster placed three pieces of correspondence in the outgoing mail. The pieces were definitely personal, Foster having addressed them by hand and used stamps instead of officially stamped envelopes. This was sufficiently unusual that Gorham noted it, and told Tripp who two of the items were addressed to. Tripp was unable to recall one of the items, but said the other was to Foster's mother.

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passed on to Foster's mother from her late husband's estate... In attempting to recall what was in the envelope, Anthony now believes that there was an extremely brief cover letter which had been typewritten, and which contained one or two sentences asking Foster's mother to sign the enclosed form and return it to the oil company."<sup>68</sup>

He attended the Rose Garden ceremony announcing the selection of Louis Freeh to replace William Sessions as the FBI Director, the first-ever FBI Director to be fired.<sup>69</sup>

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<sup>68</sup> Exhibit 8, Report of FBI interview of Sheila Foster Anthony, April 26, 1994.

<sup>69</sup> See M. Isikoff, *Sessions Said Likely to Quit as FBI Chief Within Days*, Wash. Post, July 17, 1993: An internal Justice Department report concluded that Sessions had committed numerous ethical abuses...\*\*\* Knowledgeable sources said that by the time she took office in March, Reno had concluded that Sessions had to leave. \*\*\* At one point, Sessions suggested that he fly down to Waco, a city where he once lived, so he could personally negotiate with cult leader David Koresh. The idea of an FBI director personally seeking to negotiate with a religious fanatic whom bureau scientists had already concluded was a madman alarmed FBI officials...

M. Isikoff, *Sessions Adopts Defiant Stance*, Wash. Post, July 19, 1993: "Sessions - who has been under a cloud for months because of internal Justice Department findings of ethical lapses..."

M. Isikoff & Ruth Marcus, *Clinton Fires Sessions as FBI Director*, Wash. Post, July 20, 1993: Clinton telephoned Sessions yesterday afternoon to inform him that he had been fired and then called back several minutes later to remind him that the dismissal was "effective immediately." The President told reporters later that he acted after Attorney General Janet Reno reported... \*\*\* Officials said the delay was partly to avoid any criticism that the FBI was being politicized... \*\*\* Clinton yesterday named Clarke to serve as acting director until a successor is confirmed. On Saturday morning Sessions was summoned to a meeting with Reno and White House counsel Bernard Nussbaum and was told to quit by Monday or be fired. \*\*\* Rep. Charles E. Schumer (D-NY), chairman of the House Judiciary subcommittee on crime, said that Sessions "has lost rank-and-file support and therefore his leadership effectiveness has been severely compromised."

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At around noon, Betsy Pond, White House Counsel Nussbaum's Executive Assistant, ordered Mr. Foster's lunch, a cheeseburger and French fries.<sup>70</sup> Because Mr. Foster's Assistant, Deborah Gorham, had already left for her lunch break, he asked Linda Tripp, the other of Nussbaum's Executive Assistants, to fetch the lunch he had selected off the daily menu of the cafeteria. A little while later, Mr. Foster dispatched Tom Castleton, a junior employee of the Office of Legal Counsel, to the cafeteria to see what was taking Tripp so long. When Castleton saw Tripp, she was on her way back with Mr. Foster's lunch and was surprised that Mr. Foster had sent Castleton to look for her because she had not been gone long.<sup>71</sup>

Tripp delivered Mr. Foster's lunch, a medium-rare cheeseburger, French-fries, a Coke, and some M&Ms, to his office. He relaxed on his couch and read his newspaper while he ate his meal.<sup>72</sup> At about 1:00,<sup>73</sup> as he left his office for the last time, Mr. Foster told Tripp that there were still some M&Ms on his tray if she wanted them. He also said, "I'll be back." Tripp told the FBI that "[t]here was nothing unusual about his demeanor and he did not seem distressed."<sup>74</sup>

Betsy Pond also saw Mr. Foster leave his office for the last time. "[S]he and Linda were in the office when he left... There was nothing unusual about his emotional

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<sup>70</sup> Compare OIC, p. 109: "I talked to Vince on 7/19/93, at which time he complained of anorexia..."

<sup>71</sup> Exhibit 38, Report of FBI interview of Linda Tripp, April 12, 1994.

<sup>72</sup> Exhibit 38, Report of FBI interview of Executive Assistant Linda Tripp, April 12, 1994.

<sup>73</sup> Exhibit 41, Report of Park Police interview with Executive Assistant Betsy Pond, by Captain Charles Hume, July 22, 1993: "At around 1300 hours he [Foster] came our of the office and stated 'I'll be back, there are M&Ms left in my office.'" [2130

<sup>74</sup> Exhibit 38, Report of FBI interview with Executive Assistant to Counsel Linda Tripp, April 12, 1994: Shortly after she left him eating and reading the newspaper Foster came out of the office with his jacket on and empty handed. He said, "There are lots of M&M's left in there. I'll be back." There was nothing unusual about his demeanor and he did not seem distressed.

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state. In fact, over the last several weeks she did not notice any changes, either physically or emotionally. She noticed no weight loss. She was unaware of him taking any medication or seeing any doctors. I asked her would she be surprised if I found out he was seeing a psychiatrist. She said yes. She was not aware of any depression problems."<sup>75</sup>

When his Executive Assistant, Deborah Gorham, returned from lunch, "Foster was gone... Pond told her that he had had his lunch, left M&M's for everybody, and left with his jacket slung over one shoulder, saying 'I'll be back.'"<sup>76</sup> Gorham reported that he "had never left in the middle of the day before," but that he "appeared relaxed and normal."<sup>77</sup>

After Mr. Foster left, a number of people tried to reach him by telephone. Brantley Buck, a Rose Law Firm partner, called twice from Little Rock, reportedly regarding the blind trust that Mr. Foster was handling for the Clintons.<sup>78</sup> (Buck described Mr. Foster's remaining duties concerning the blind trust as being merely

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<sup>75</sup> Exhibit 41, Report of Park Police interview with Executive Assistant Betsy Pond, by Captain Charles Hume, July 22, 1993.

<sup>76</sup> Exhibit 2, Report of FBI interview with Executive Assistant to Deputy Counsel Deborah Gorham, April 19 and 26, 1994: Soon after he returned - about 11:40 - 11:50, Gorham entered his office and told him she was going out and did he need anything. He answered, "No \_ I believe I have everything." He appeared relaxed and normal. Foster was gone when she returned about 1:20 - 1:30 p.m. He had left a couple of letters and a memo for her to type. She does not recall who the letters were to or what, specifically, the memo pertained. She also does not recall what was on his itinerary for the afternoon. Pond told her that he had had his lunch, left M&M's for everybody, and left with his jacket slung over one shoulder, saying "I'll be back."

<sup>77</sup> Exhibit 2, Report of FBI interview with Executive Assistant Deborah Gorham, April 19 and 26, 1994.

<sup>78</sup> Exhibit 12, Fiske Report, June 30, 1994. Exhibit 40, Deposition of President Clinton, June 12, 1994.

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"ministerial."<sup>79</sup>) Gordon Rather, a Little Rock Attorney who worked at Bruce Lindsey's and the President's old firm, also called,<sup>80</sup> reportedly about the President's appointment of federal court judges. Maggie Williams, Ms. Clinton's Chief of Staff, also called, as did William Kennedy.<sup>81</sup> Betsy Pond paged him at Nussbaum's request.<sup>82</sup> When Mrs. Foster called around 5:00,<sup>83</sup> Deborah Gorham told her that Mr. Foster was unable to come to the phone, but did not reveal that he had left his office around 1:00 and had not returned, as he said he would.

That evening, Web Hubbell was beeped while having dinner at the Lebanese Taverna restaurant in Washington with his wife, his children, White House intern Janet Schaufele, and Marsha Scott. Hubbell, his wife, and Marsha Scott proceeded to the Anthony's nearby home to notify Mr. Foster's two sisters, brother-in-law and niece of the death.<sup>84</sup> Officially, Sheila, Sharon, and Web then went to

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<sup>79</sup> Exhibit 42, Report of FBI interview of C. Brantly Buck, May 18, 1994. Exhibit 12, Fiske Report, June 30, 1994.

<sup>80</sup> Exhibit 43, Report of FBI interview of Gordon S. Rather, May 17, 1994: "He was impressed with the fact that the same day, possibly within an hour of his call [2:14 p.m.], someone from Foster's office called him back and asked if it were an urgent matter or if it was all right if Foster returned his call the following day."

<sup>81</sup> Exhibit 2, Report of FBI interview of Executive Assistant Deborah Gorham, April 19, 1993.

<sup>82</sup> Exhibit 2, Report of FBI interview of Executive Assistant Deborah Gorham, April 19, 1993.

<sup>83</sup> Exhibit 16, Report of FBI interview of Mrs. Lisa Foster, May 9, 1994.

<sup>84</sup> Exhibit 37, Report of FBI interview with Deputy Assistant to the President Marsha Scott, May 12, 1993: "Foster's other sister Sharon Bowman, was also visiting from Arkansas. Scott told the two sisters and the niece what had occurred. Scott was unable to say who was notified in what order among The White House staff." See also Exhibit 44, White House Chronology Memo by Jane Sherburne, May 15, 1996: "Marsha [Scott] and Web [Hubbell] found Sheila Anthony at home with Vince Foster's other sister [Sharon Bowman] and her daughter, who was visiting from out of town."

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the Foster residence. Reportedly they arrived at the same time as Park Police investigators Cheryl Braun and John Rolla had, to notify the family. The whereabouts of Sheila's husband Beryl and the Foster sons that evening is unclear. The two Police Investigators spent 70 minutes in the Foster home where a dozen or so close friends and relatives gathered. According to Webster Hubbell, "everyone at the Foster residence that evening was trying to make logic out of the death, trying to pinpoint some event, but that they could not do so..."<sup>85</sup> Investigator Rolla testified about his interview of some of those there that night.

- Q. Did anyone at the notification mention depression or anti-depressant medication that Foster might have been taking?
- A. I mentioned depression, did you see this coming, were there any signs, has he been taking any medication? No. All negative answers.<sup>86</sup>

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<sup>85</sup> Exhibit 1, Report of FBI interview with Associate Attorney General Webster Hubbell, April, 13 and 15, 1994: Hubbell said that everyone at the Foster residence that evening was trying to make logic out of the death, trying to pinpoint some event, but that they could not do so. \*\*\* Individuals present at the Foster residence on the night of Foster's death included the following: Bruce Lindsey; Bill Kennedy; Marsha Scott; David Watkins and his wife (Watkins was Operations for the White House); Mack McLarty and his wife Donna; Senator Pryor; Beryl Anthony; Foster's daughter, Laura; and then later the two boys were located, and on one of those nights [sic], President Clinton...

[Also present were at the Foster residence that night were David Gergen, Sheila Anthony, Sharon Bowman & daughter, Craig Livingstone (outside), Helen Dickey, Vernon Jordan, Walter Pincus and Mrs. Pincus.]

<sup>86</sup> Exhibit 6, Deposition of Park Police investigator John Rolla, July 21, 1994.

Compare A. Devroy & M. Isikoff, *Handling of Foster Case is Defended*, Wash. Post, July 30, 1993: Police who arrived at Foster's house the night of the death were turned away after being told Lisa Foster and family members were too distraught to talk. Investigators were not allowed to interview her until yesterday. "That was a matter between her lawyers and the police," [David] Gergen said, and the White House "had no role in it."

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On July 21, Mr. Clinton spoke to the White House staff members who knew Mr. Foster well.

In the first place, no one can ever know why this happened. Even if you had a whole set of objective reasons, that wouldn't be why it happened, because you could get a different, bigger, more burdensome set of objective reasons that are on someone else in this room. So what happened was a mystery about something inside of him. And I hope all of you will always understand that... [Vince Foster] had an extraordinary sense of propriety and loyalty, and I hope when we remember him and this we'll be a little more anxious to talk to each other and a little less anxious to talk outside of our family.<sup>87</sup>

**c. No record of Mr. Foster's having left the White House complex**

The White House itself is roughly a rectangular-shaped building with a wing on each end. It is bordered by Fifteenth Street on the East and Seventeenth Street to the West. Beyond the West Wing of the White House, running perpendicular to it, is West Executive Avenue. It is lined on both sides with end-in parking. Across West Executive Avenue from the White House, also within the White House campus, is the Old Executive Office Building (OEOB). A security fence surrounds the White House grounds, including the OEOB.

Prior administrations had housed their entire Counsel's office in the OEOB. The Clinton administration moved the offices of White House counsel Bernard Nussbaum and deputy Counsel Vincent Foster to the second floor of the West Wing. The majority of the White House Counsel's offices, where Associate Counsel William Kennedy and others were, remained in the OEOB. Mr. Kennedy reported to Mr. Foster.<sup>88</sup>

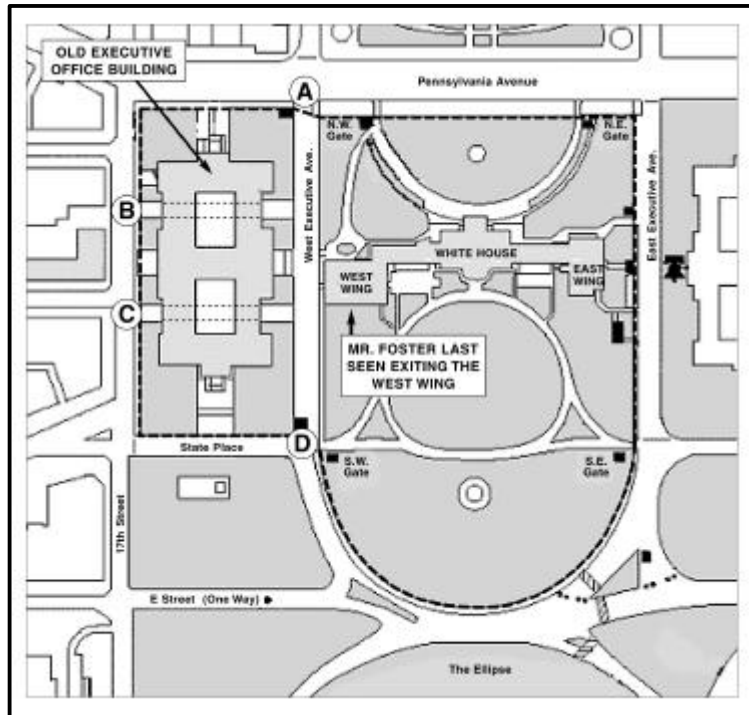
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<sup>87</sup> Exhibit 45, Remarks by the President to the White House staff, July 21, 1993.

<sup>88</sup> Exhibit 46, Deposition of Associate White House Counsel William Kennedy, July 11, 1995: "Q. And did you report through Mr. Foster to Mr. Nussbaum or directly to Mr. Nussbaum? A. Usually through Mr. Foster."

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The Office of White House Personnel Security, of which Craig Livingstone served as Chief, was also in the OEOB.<sup>89</sup> Mr. Livingstone reported mostly to Mr. Kennedy, and so was a regular visitor to the White House Counsel's Office in the OEOB. Livingstone was also a regular visitor to Mr. Foster's office in the west wing.<sup>90</sup>



**White House Campus:** Mr. Foster's car was officially parked on West Executive Avenue between gates designated as A and D. His car would have exited the campus from gates designated as A, B, C, or D.

<sup>89</sup> Exhibit 47, Deposition Craig Livingstone, July 10, 1995: "Q. Okay, and you reported to Mr. Kennedy? A. That's correct... Q. Mr. Livingstone, in the White House complex, where is your office? A. I'm located in the Executive Office Building in Room 84."

<sup>90</sup> Exhibit 48, Deposition of Tom Castleton, June 27, 1995: Q. [W]ho were regular visitors to the counsel's [Foster's] office? A. ...Craig Livingston... Q. What was Mr. Livingstone's business at the counsel's suite in the west wing? A. Well, I think he worked for us. He was the director of security and the counsel's office, I believe, serves as an umbrella to that office. Q. He had a reporting relationship to Mr. Nussbaum? A. Yes, although I think he more directly reported to Mr. Kennedy... Q. Where was Mr. Kennedy's office physically located? A. In the Old Executive Office Building.

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On July 20, 1993, Uniformed Secret Service Officer John S. Skyles was posted at the exit in the West Wing, close to West Executive Avenue. He told the FBI he recalled that Mr. Foster had walked out of the West Wing "about lunchtime" on July 20. Officer Skyles "easily recognized Foster because he had seen him enter and exit the White House west wing on numerous occasions." Skyles "remembers this encounter in detail because, when he heard that Foster had died via suicide, he distinctly recalled that Foster did not appear to be at all depressed or preoccupied as he walked by. He said that he was therefore quite surprised to hear that Foster had committed suicide."<sup>91</sup>

The morning after Mr. Foster's death, FBI agents Dennis Condon and Scott Salter were dispatched to the White House to meet with FBI agent John Danna to investigate the death. They visited the OEOB. Agent Condon testified he

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<sup>91</sup> Exhibit 49, Report of FBI interview of US Secret Service Officer John S. Skyles, April 21, 1994: He explained that he easily recognized Foster because he had seen him enter and exit the White House west wing on numerous occasions when he (Skyles) was on duty. On July 20, 1993, Officer Skyles worked the 6:30 a.m. through 3:00 p.m. shift at post E-4. He described this as a rather routine day about which he could recall noticing nothing out of the ordinary. He advised that numerous White House staffers came and went through post E-4 on July 20 but that he could recall few specifics about these individuals. He advised, however, when he learned of Vincent Foster's death late on the evening of July 20, he remembered that he had seen Foster leaving the west wing of The White House through entrance E-4 earlier that day. Skyles said that he was approximately two thirds of the way through his shift on July 20 when he saw Foster leaving The White House. He said that while he cannot recall exactly when he saw Foster, he does distinctly recall that it was "about lunchtime." He said that as Foster walked pass the guard desk at entrance E-4 he (Skyles) asked Foster, "How are you doing sir?" He said that Foster replied, "Hello-fine" and nodded his head to Skyles with what Skyles remembers as a "half smile." Officer Skyles said that he remembers this encounter in detail because when he heard that Foster had died via suicide he distinctly recalled that Foster did not appear to be at all depressed or preoccupied as he walked by. He said that he was therefore quite surprised to hear that Foster had committed suicide.

Tuesday, July 20

could "not recall" why they went to the OEOB, what offices they visited, or to whom they had spoken.

Q. Where did you go there [OEOB], what office in particular?

A. I don't recall.

Q. Do you know why you went there?

A. I don't recall exactly, no.

Q. Did you meet anybody there?

A. I believe so, but I don't know...<sup>92</sup>

If these agents interviewed anyone at the OEOB, the interview reports have not been made public. So, we do not know who, other than Uniformed Secret Service Officer John Skyles, saw Mr. Foster around lunchtime.

Officially, Mr. Foster went to his Honda, parked in slot 16 on West Executive Avenue,<sup>93</sup> then drove off the White House campus and, hours later, into the Fort Marcy lot. There has never been any video or testimonial evidence produced that Mr. Foster did, in fact, leave the White House grounds in his car. Officer Skyles is the last publicly known person to have seen Mr. Foster alive.

### **3. Fort Marcy Park, discovery of body**

#### **a. Fort Marcy Park**

Fort Marcy National Park is about 25 acres in size. It is located about a mile from Washington in suburban McLean, Virginia. It is five-and-a-half miles from the White House. The park is preserved for historical reasons.

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<sup>92</sup> Exhibit 50, Deposition of FBI Agent Dennis Condon, June 28, 1995: Q. At what point did Agent Danna meet with you? A. I believe we met with him almost immediately upon our arrival... Q. And then you went into the Old Executive Office Building? A. I believe that's correct. Q. Where did you go there, what office in particular? A. I don't recall. Q. Do you know why you went there? A. I don't recall exactly, no. Q. Did you meet anybody there? A. I believe so, but I don't know - I don't recall exactly who that might have been, possibly somebody from the Secret Service, but I'm not certain.

<sup>93</sup> Exhibit 16, Report of FBI interview of Lisa Foster, May 9, 1994.

## Fort Marcy Park

It offers no view of the nearby Potomac River and is not scenic. The park is positioned between two busy arteries into Washington, Chain Bridge Road to the north and the George Washington Memorial Parkway to the south.<sup>94</sup>

The park contains no buildings. The Fort is simply earthen embankments, or berms, shaped roughly like a triangle. The Fort is located in the northern part of the park, with one side of the triangle running parallel to Chain Bridge Road, about fifty feet from it. Two sides, or berms, of the triangle are about 375 feet long, and one is around 300 feet. Except for the area inside the triangular Fort and the parking lot, visibility is very limited because most of the park is heavily wooded. The berms that form the sides of the fort are covered with trees and underbrush.

The park's small, banana-shaped parking lot is about 100 feet southeast of the southwest corner of the Fort. It parks 21 cars. The only paved vehicle access into the park is a 300-foot driveway into the lot, running due south to the Parkway. At the southern end of the parking lot, bordering the footpath leading to the Fort, is a sign with a description of the park.<sup>95</sup>

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<sup>94</sup> Compare OIC, p. 102: As to the Fort Marcy Park location, Dr. Berman stated Mr. Foster "was ambivalent to the end" and may have driven for a while before going to Fort Marcy Park.<sup>fn324</sup> He may have "simply and inadvertently happened upon the park or he may have purposely picked it off the area map found in his car."<sup>fn325</sup> Dr. Berman stated that Mr. Foster's suicide in Fort Marcy Park is "[s]imilar to the typical male physician who suicides by seeking the privacy of a hotel room, and a 'do not disturb' sign."<sup>fn326</sup>

<sup>95</sup> With the outbreak of the Civil War, Washington turned into the training ground, arsenal, supply depot, and nerve center for the Union cause. To protect the city and vital supply routes from enemy hands, Union armies built a ring of earthen fortifications. The remains of those fortifications preserved by the National Park Service are now known collectively as the Fort Circle Parks. Taking command of and reorganizing the Army of the Potomac, Major General George B. McClellan appointed Major John G. Barnard of the Corps of Engineers to build many new forts. By the spring of 1865, the defense system totaled 68 forts and 93 batteries with 807 cannons and 98 mortars in place. Washington had become the most heavily fortified city in the world. Fort Marcy, perched high above the Potomac, protected against enemy attacks from northern Virginia land routes.



## Fort Marcy Park

Mr. Foster's body was found close to the northwest tip of the Fort, lying on a path on the outward side of the western berm around 100 feet from Chain Bridge Road and 300 feet from the closest house which is just on the other side of Chain Bridge Road. The next three closest homes are on the same side of Chain Bridge Road, from 470 to 550 feet from the body site. Four or more homes are 600 to 700 feet from the site, and the two Saudi Arabia Embassy buildings are 700 feet away the site.<sup>96</sup>

Another vehicular approach to Fort Marcy Park is an old dirt road around 600 feet west of the body site. This road runs along the western border of the park and the nearby homes. The hidden entrance to this old civil war road is a driveway to a house on Chain Bridge Road that abuts the park (681 Chain Bridge Road). The ground separating the body site from the old road is so heavily treed that the civilian who officially discovered the body testified that anyone entering the park via this road "would not be seen, period."<sup>97</sup> The fence separating this road from the park's border is collapsed for several yards, near an old unoccupied cabin located on the park's border. (There is not a single reference to this civil war road in the entire investigative record, including the OIC's Report.)

In July of 1993, seventeen-year-old Leslie Rutherford lived near the park. The day before Mr. Foster's death, Monday, July 19, 1993, was an extremely hot and humid day. At around three o'clock that afternoon, Leslie was walking near the west border of Fort Marcy Park, having entered the park over or through one of the gaps in the park's fence bordering the old road. Although investigators did not

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<sup>96</sup> Compare Exhibit 12, Fiske Report, June 30, 1994: "Saudi residence is the closest building to the park."

<sup>97</sup> Exhibit 51, Deposition of Dale [see below] by Congressman Burton, Mica, Rohrabacher, July 28, 1994: Q. But there is a private road that goes back to that cabin? A. There is a private road that goes right back to it from the housing development right next to it. Q. Okay. If somebody came back that road they wouldn't be seen? A. They would not be seen, period. Q. How far is that from the cabin? A. 150, 175 yards. Q. So they could have walked around that and come right up -- A. They are dead in the woods all the way, and there is a path that leads right straight through there, a very well worn walking nature trail.

## Fort Marcy Park

canvass the neighborhood, she came forward during the initial investigation because she remembered seeing a man wearing a suit walking through Fort Marcy, and "thought it was strange."<sup>98</sup> The man she saw was in the section of the park where Mr. Foster's body was found the following day. When she looked in his direction, he immediately turned his head away. The only Park Police record of the strange man Leslie saw is found in handwritten notes of Investigator Renee Abt, recorded on July 24, 1993. The typewritten Park Police reports did not mention this man.

The FBI's Report of its interview with Leslie is dated May 17, 1994.

[A]t approximately 3:00 p.m. on July 19, 1993... [she] noticed at a distance of approximately 10 to 15 feet a white male walking by himself in a direction leading from the George Washington Memorial Parkway into the northeast section of the park. She stated what caught her attention was that this white male, in spite of the heat, was dressed in a dark suit, white shirt, and a red neck tie. [She] further described this white male as being in his early 40's, dark hair, approximately 180 pounds, and slightly over 6 foot in height... This white male had no facial hair nor was he wearing eyeglasses. She further stated that when she noticed this white male, he immediately looked away from her and therefore she could furnish no additional details relative to his facial characteristics. In a further attempt to determine the height of this white male, it was [the interviewee's] opinion that he was slightly over 6 foot [sic] tall, but did not approach 6 foot 4 inches in height. [The interviewee] was exhibited photographs of Mr. Foster but she was unable to make any determination as to whether these photographs resembled the white male she saw at the park on July 19, 1993.<sup>99</sup>

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<sup>98</sup> Exhibit 52, Handwritten notes of Park Police Investigator Renee Abt, July 24, 1993: "Saw man walking thru [sic] park on Monday thought it was strange."

<sup>99</sup> Exhibit 53, Report of FBI interview of Leslie Rutherford, May 17, 1994.

## Discovery of body

The FBI reported that she observed this man in the "northeast section of the park." Northeast is the opposite from where Mr. Foster's body was recovered. But the handwritten notes by the FBI agent who interviewed Leslie reflect that she actually said she saw the suspicious acting man on the path on the park's "west border," where she had entered the park from the direction of the neighboring tennis courts -- and the side of the park where Mr. Foster's body was found.

"Location - by cabin by the tennis courts - west border of Ft. Marcy park - on path."<sup>100</sup>

The OIC omits any mention of Leslie Rutherford's account of having seen a man acting suspiciously by the back road the day before the death, wearing a suit in 90 degree weather.

### **b. Official version of discovery of body**

Summary: The OIC reports that at 5:50 p.m., Dale stopped at the park to urinate, discovered the body, drove 3 miles and reported the death to two park workers. Eight months later, a New York daily newspaper reported that two park workers admitted that they had discovered the body, whereupon Dale decided to come forward, contacted G. Gordon Liddy, and the FBI interviewed Dale. Based on a "detailed" comparison of Dale's version of the conversation with the park maintenance workers', Fiske gave credence to Dale's account, yet these accounts differ in virtually every detail, including that the maintenance workers reported that Dale said the body had been shot. Dale saw no gun and believed death had been caused by a blow to the head.

The OIC reports that Mr. Foster's body was found by "C5", which stands for the fifth civilian witness at the park. His first name is Dale. The Fiske Report refers to him as "CW," which stands for "Confidential Witness." He had requested anonymity (Dale's full name has since been published in the Washington Times and its sister publication Insight on the News). Dale is the only one of the five civilian park witnesses whose name is wholly redacted in the government records of the case. Officially, he discovered the body, drove 2.75 miles on the outbound George Washington Parkway to the Park Headquarters

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<sup>100</sup> Exhibit 54, Handwritten notes of FBI interview of Leslie Rutherford, May 17, 1994.

## Discovery of body

at the Turkey Run Maintenance facility, where he saw two uniformed off-duty Park Service employees. He told them about the body, whereupon one of them reportedly called authorities.

OIC, p. 22:

*C5 said that he exited his van, and while walking through the park, found Mr. Foster's body near the second cannon, the cannon closer to Chain Bridge Road.<sup>fn42</sup> C5 then left Fort Marcy and drove approximately 2.75 miles further outbound on the GW Parkway to a parking area near GW parkway Headquarters; there, C5 reported the dead body to two off-duty Park Service employees who called 911.<sup>fn43</sup>*

Aside from what is in the Fiske and Starr Reports, we learn of Dale's story from three sources. The first is the March 22, 1994 "Report of Interview," authored by radio talk show host and former FBI agent G. Gordon Liddy, to whom Dale had confided. Second, we have four reports of FBI interviews by FBI agents Monroe and Columbell. And third, we have Dale's deposition, taken at his home on the evening of July 29, 1994, by Congressmen Dan Burton, Dana Rohrabacher, and John Mica. Most of what we know is from this transcript. (Burton took Dale's deposition before the Fiske Report was released to the public. The Senate Banking Committee never deposed the Park Service employees or any civilian park witnesses.)

Dale reported that he stopped at the park because of an urgent need to relieve himself.<sup>101</sup> He backed into a parking space, took off his shirt and walked to the furthest end of the fort, around 750 feet, whereupon he urinated.

After he discovered the body, he said, he drove to the Turkey Run maintenance facility "to go to the nearest phone"<sup>102</sup> (it was not the nearest phone). Dale said he told

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<sup>101</sup> Exhibit 55, Report of FBI interview with Dale, April 14, 1994: "[H]e had an urge to relieve himself and realized that the first pull off area where he could have some degree of privacy was Fort Marcy Park."

<sup>102</sup> Exhibit 51, Deposition of Dale by Congressmen Burton, Mica and Rohrabacher, July 28, 1994.

## Discovery of body

a Park Service maintenance worker about the body. Dale did not make the call to authorities himself (or come forward for eight months) because, as he later told G. Gordon Liddy, he didn't "want to end up like that guy"<sup>103</sup> he found. Dale had inspected the body and was certain there was no gun in Mr. Foster's hand. Dale never explained why he feared he would "end up like that guy" simply by virtue of his having discovered the body.

Dale claims the catalyst for his coming forward was the appearance of an article in the March 14, 1994, issue of the New York Daily News. It began with puffery, reporting that although most of the investigation was still-secret, the New York Daily News had reviewed the Park Police Report. It then reported what Dale claimed was the cause of his concern, that one of the Park Service workers had discovered Foster's body at the park but had lied about it because, at the time, he had been drinking at the park.

Most of what happened in Fort Marcy Park on July 21 [sic] has remained secret. The Park Police Report has only been reviewed once by the Daily News... The body was discovered by a park maintenance worker who had slipped into the area for a quiet midday drink. He reported finding the body, but then made up a story about having seen a white van. He has since recanted the white van story, admitting it was created to cover up his own behavior.<sup>104</sup>

Dale testified why he reconsidered.

"[W]hat I knew would become public and if there was a threat to me, that, that possibility would be greatly, greatly reduced simply by the fact that what I knew would have been now made official."<sup>105</sup>

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<sup>103</sup> Exhibit 56, Report of interview of Dale by G. Gordon Liddy, March 22, 1994.

<sup>104</sup> M. McAlary, *Aide's Suicide is Confirmed by Heads-up Cops*, N.Y. Daily News, March 14, 1994. See also J. Seper, *Foster death still a puzzle*, Wash. Times, July 19, 1994: "The man told the FBI and Mr. Liddy that he notified National Park Service personnel of the discovery [of the body] and then left the park."

<sup>105</sup> Exhibit 51, Deposition of Dale by Congressmen Burton, Mica and Rohrabacher, July 28, 1994.

## Discovery of body

Dale said he was worried because, he reasoned, if he officially did not exist, Foster's killers might kill him, too. He talked it over with his brother, who suggested that Dale contact former FBI agent G. Gordon Liddy because Liddy could be trusted not to reveal Dale's identity. Liddy took Dale's information, wrote a "Report of Interview," and forwarded it to deputy regulatory Independent Counsel Roderick Lankler.

Liddy's Report related that Dale had described seeing a white car, and in it, from the distance of twenty-five feet away<sup>106</sup> through the closed windows, a suit-jacket that "matched" the trousers he had seen on Mr. Foster, and a briefcase. Dale testified that on the passenger's side floor of the car he saw "a four-pack of wine cooler with two gone,"<sup>107</sup> and that the wine coolers had a light pink label "exactly like the bottle" he had seen beside the body.<sup>108</sup>

In his cover letter, Liddy concluded that Dale had described the interior of Mr. Foster's car, and wrote that "the report contains information about the scene and the

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<sup>106</sup> Exhibit 56, Report of Interview of Dale by G. Gordon Liddy on March 22, 1994: "[O]bserved a suit coat [in the car] which matched... from approximately eight feet above and twenty-five feet laterally in distance."

<sup>107</sup> Exhibit 56, Report of Interview of Dale, by G. Gordon Liddy, March 22, 1994: He observed a suit coat which matched in color the trousers on the body he had found. The coat was light gray, appearing to be thrown, not neatly folded, over the back of the seat on the passenger's side. The coat was barely over the top of the seat-back. Witness thinks he saw a briefcase on the passenger's side on the floor, although he is not certain. He stated that he is certain, however, that there was a "Four pack" of "wine cooler" in there. Witness stated that he observed the interior of the Honda from approximately eight feet above and twenty-five feet laterally in distance.

<sup>108</sup> Exhibit 51, Deposition of Dale by Congressmen Burton, Mica and Rohrabacher, July 28, 1994: Q. And you said that you also saw a wine cooler pack on the floor? A. A four-pack wine cooler with two gone. The same color as - it was - it had a light pink label. Q. Okay. Did it look like the bottle that you saw beside the body? A. Exactly like the bottle.

## Discovery of body

interior of Mr. Foster's automobile that I, for one, have never seen published."<sup>109</sup>

Liddy told Dale that he could trust the two FBI agents who were to interview him, because, Dale testified, Liddy said they were "old Hoover guys... not young kids... trying to get a reputation or prove anything [and that] they can be trusted."<sup>110</sup> (Three weeks later, these same agents interviewed Patrick Knowlton.)

The Fiske Report patently gave credence to Dale.

In order to test the veracity of the information provided by CW, this Office performed a detailed analysis of that information. CW provided details that have never become public, and that could have been known by the person who discovered Foster's body. These details include specific information about the appearance and location of the body, the description of the park maintenance workers, and the short conversation held with them.<sup>111</sup>

Dale testified that he saw no gun, no "signs of a gunshot on his shirt or clothes,"<sup>112</sup> and that he figured that

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<sup>109</sup> Exhibit 59, Letter from G. Gordon Liddy to deputy regulatory Independent Counsel Roderick Lankler, April 5, 1994.

<sup>110</sup> Exhibit 51, Deposition of Dale by Congressmen Burton, Mica and Rohrabacher, July 28, 1994: A. And I went to them because after talking with Mr. Liddy the FBI was really asking and begging and doing everything they could to get in touch with me. Mr. Liddy said these are two of the old Hoover guys, they are not young kids and they're not trying to get a reputation or prove anything. I think they can be trusted, I think you can help an investigation, would you be willing to meet with them. Remaining as a confidential witness with their promise to do the same and they have done that absolutely. Q. What are the names of the two agents... A. I prefer you all don't have them. Q. We are not going -- they are going to testify tomorrow before the Committee so their names will be known tomorrow.

<sup>111</sup> Exhibit 12, Fiske Report, June 30, 1994.

<sup>112</sup> Exhibit 51. Deposition of Dale by Congressmen Burton, Mica and Rohrabacher, July 28, 1994: Q. Yeah. Go ahead. Tell us what you saw. A. I saw blood traces on his nose and lips. There was not streams of blood on the side of

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Mr. Foster had been "hit in the head."<sup>113</sup> Yet, according to the FBI's Report of its interview with one of the two park maintenance workers, Charles Stough, Dale told him the body had been shot.

[Stough] stated that the driver of this white van specifically asked him if he would call the Park Police, further informing Mr. [Stough] that he had seen a body at Fort Marcy Park and that it looked like this man had been shot and that he looked dead.<sup>114</sup>

According to the FBI's Report of its March 30, 1994 interview with him, Stough had reported that he was "confident he would recognize"<sup>115</sup> Dale. But the FBI waited for three more months, until June 21, nine days before the Fiske Report was issued, to ask Stough to identify Dale. After viewing him for about 10 seconds, Stough told the FBI it "possibly could be him" but could not "state positively."<sup>116</sup> The other park maintenance worker, Francis

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his face. There was not trickles of blood as indicated in the Foster report. I was looking straight down into the man's face and saw the blood. That's when I said to myself hey, did somebody shoot this man? I didn't see any signs of a gunshot on his shirt or clothes.

<sup>113</sup> Exhibit 51, Deposition of Dale by Congressmen Burton, Mica and Rohrabacher, July 28, 1994: A. You see a somebody laying there dead, you go what happened here, did somebody shoot him? No signs of it. Was he in a fight? Was he hit in the head? \*\*\* Q. What did you think happened? What did it look like? A. Well, when I started looking to see if he had anything in his hands, he had been hit in the head, what does that tell you?

<sup>114</sup> Exhibit 60, Report of FBI interview of Charles Stough, March 30, 1994. Exhibit 61, Handwritten notes of FBI Interview with Charles Stough, March 30, 1994: "crossing parking lot - white van - 'you need to call Park Police' - he saw a body at Ft. Marcy - 'looks like he is shot,' called USPP and informed that person was shot."

<sup>115</sup> Exhibit 60, Report of FBI interview of Charles Stough, March 30, 1994.

<sup>116</sup> Exhibit 61, FBI handwritten notes of interview of Charles Stough, June 21, 1994. Exhibit 68, Handwritten notes of FBI Interview with Charles Stough, June 21, 1994

## Discovery of body

Swann, reportedly told the FBI that he "probably could identify" the driver of the van if he saw him again, but no such request was forthcoming.

The record demonstrates that Dale and the two park workers also disagree on almost everything else that occurred during their short visit.

Dale had told Liddy he saw the two park workers "leaning against the tailgate"<sup>117</sup> of a truck. Stough reportedly told the FBI he was "walking" across the parking lot when he encountered the driver of the van.<sup>118</sup> Swann had reportedly told the FBI that both he and Stough had been "sitting"<sup>119</sup> when Dale entered the lot.

Stough said there were no other individuals in the parking area the evening of July 20, 1993, according to the FBI's Report of its interview with him.<sup>120</sup> The FBI's report of its interview with Swann, on the other hand, relates that "a few park rangers" were at Turkey Run, and that neither he nor Stough told the rangers about the dead

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<sup>117</sup> Exhibit 56, Interview of Dale by G. Gordon Liddy, March 22, 1994: "There he saw two males dressed in what appeared to him to be park service uniforms. They were leaning against the tailgate of a truck."

<sup>118</sup> Exhibit 60, Report of FBI interview of Charles Stough, March 30, 1994: "[A] white van entered the parking area and the occupant of the van engaged him in conversation while he, [Stough] was walking from [Swann's] vehicle to his own vehicle." Exhibit 61, Handwritten notes of FBI Report of interview of Charles Stough, March 30, 1994: "[Stough was] crossing the parking lot."

<sup>119</sup> Exhibit 62, Report of FBI interview of Francis Swann, March 30, 1994: "[A] white Chevy van pulled into the maintenance yard off of the GW parkway. He estimated the time to be approximately 5:45 p.m. The van pulled up to where he and [Stough] were sitting."

<sup>120</sup> Exhibit 60, Report of FBI interview of Charles Stough, March 30, 1994: "He stated there were no other individuals in the parking area the evening of July 20, 1993 who would be in a position to provide a further description of this van or the occupant."

## Discovery of body

body.<sup>121</sup> Stough "thought he [Dale] stepped out of the van,"<sup>122</sup> and estimated he was 5'7" to 5'8" tall. Swann said Dale's height was hard to estimate because "he never got out of the van."<sup>123</sup> The caller to the Park Police, reportedly Swann, estimated the man was 5'11".<sup>124</sup>

After arriving at the Turkey Run maintenance facility parking lot, Dale said he looked both ways and did not see any phones in the small parking lot.<sup>125</sup> He explained he had missed them because "the phones sat back behind the tree."<sup>126</sup> However, the telephones are not obscured by a tree and anyone entering the small Turkey Run maintenance facility parking lot would have been hard-pressed to have missed seeing them. Dale testified that he repeatedly asked Stough where was a telephone, and that each time, Stough replied, "Why?"<sup>127</sup>

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<sup>121</sup> Exhibit 62, Report of FBI interview of Francis Swann, March 30, 1994.

<sup>122</sup> Exhibit 61, Handwritten notes of FBI interview of Charles Stough March 30, 1994: "Thought he [Dale] stepped out of van."

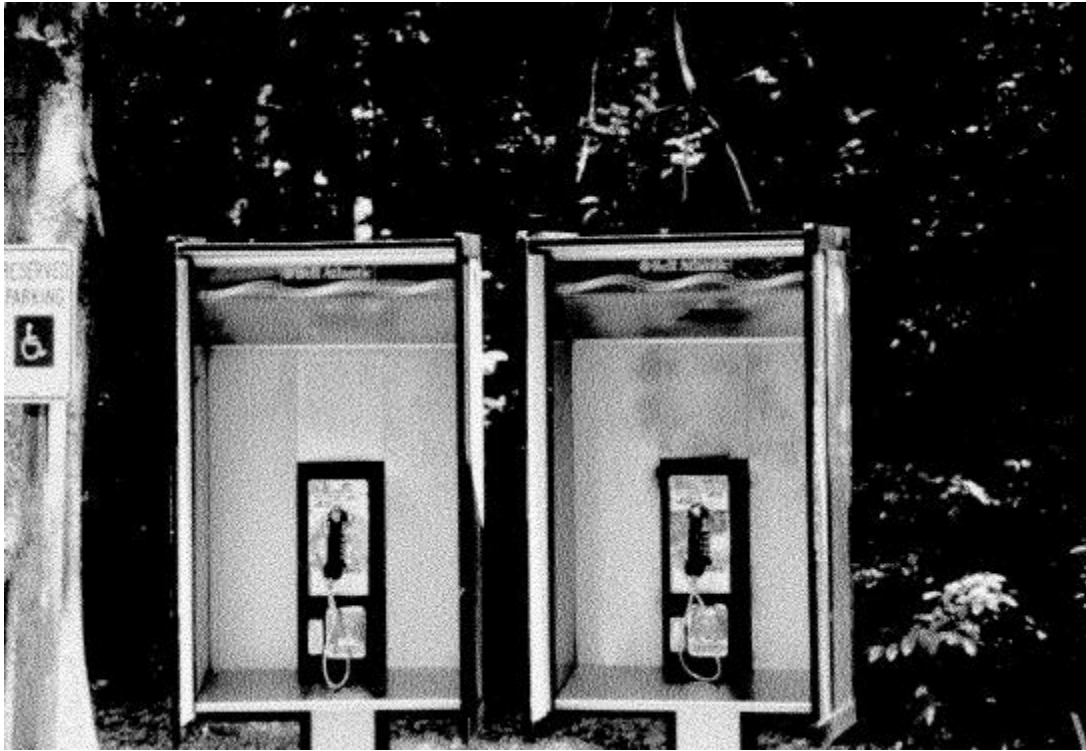
<sup>123</sup> Exhibit 62, Report of FBI interview of Francis Swann, March 30, 1994: "Approximately 5'9"-5'10" (difficult to estimate because the driver [Dale] never got out of the van)."

<sup>124</sup> Exhibit 63, Transcript of call to Park Police, July 20, 1993 at 6:03 p.m.: "Sergeant Myers: White male, how tall? Park Service Employee: Uh, he was sitting in the van (unintelligible). Sergeant Myers: Oh, he was sitting in the van. Park Service Employee: Five eleven, five something like that."

<sup>125</sup> Exhibit 51, Deposition of Dale by Congressmen Burton, Mica and Rohrabacher, July 28, 1994: "I was looking at them, drove by, still didn't see any phones, looked both ways and never saw them, backed up turned around, started back out and was going to ask them to use the phone..."

<sup>126</sup> Exhibit 51, Deposition of Dale by Congressmen Burton, Mica and Rohrabacher, July 28, 1994: "There is two phones there. I never saw them because I saw the guys there. I was looking at them, the phones sat back behind the trees over here on the right side."

<sup>127</sup> Exhibit 51, Deposition of Dale by Congressmen Burton, Mica and Rohrabacher, July 28, 1994: "I asked him for a phone. He stated that, you know, 'Why?' And I says, we, it's an



Dale, the witness who officially found Mr. Foster's body, testified that he drove into this parking lot to find a telephone. He claimed not to have seen them because "the phones sat back behind the trees."



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emergency, I need to use the phone. Can you get me to a phone?  
'Yes, but why?' And he says - I think he said it the third time."

## Discovery of body

Stough, however, reportedly told the FBI that he did not "ask any questions of the occupant of the white van."<sup>128</sup> There is no record of either Swann or Stough having related that Dale had asked any questions other than whether the Park Service employed them.<sup>129</sup>

Swann reportedly told the Park Police that Dale told him about the dead body.<sup>130</sup> Both Swann and Stough reportedly told the FBI that Dale had informed them both of

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<sup>128</sup> Exhibit 60, Report of FBI interview of Charles Stough, March 30, 1994: "[Stough] advised that he did not ask any questions of the occupant of the white van which immediately departed the parking lot after furnishing this notification to himself and Mr. [Swann]."

<sup>129</sup> Exhibit 62, Report of FBI interview of Francis Swann, March, 30, 1994: [Swann] stated they both had 3 beers and were getting ready to leave the yard when a white male in a white van pulled into the maintenance yard off of the GW Parkway. He estimated the time to be approximately 5:45 p.m. The van pulled up to where he and [Stough] were sitting. At the time, both he and [Stough] were still in their park service uniforms. [Swann] advised that the van driver asked if they worked for the park service and they responded in the affirmative. The van driver then stated words to the effect that "there is a body down at Fort Marcy..."

Exhibit 60, Report of FBI interview of Charles Stough, March 30, 1994: [Stough] further advised that since there was unusually heavy traffic on this particular evening, [Swann] parked his vehicle directly opposite a public telephone and both proceeded to consume two or three beers apiece. According to [Stough] sometime between 5:30 and 6:00 p.m., a white van entered the parking area and the occupant of the van engaged him in conversation while he, [Stough] was walking from [Swann's] vehicle to his own vehicle. [Stough] stated that the driver of this white van specifically asked him if he would call the Park Police, further informing Mr. [Stough] that he had seen a body at Fort Marcy Park.

<sup>130</sup> Exhibit 64, Park Police Report of interview of Francis Swann, by Park Police Detective James Morrissette, August 2, 1993: "This operator advised Mr. Swann that there was a body in the area of the cannon in Ft. Marcy Park."

## Discovery of body

the dead body;<sup>131</sup> yet Dale told the FBI he had spoken only to the white park worker, Stough, and stated that the "black male [Swann] remained by the pickup truck."<sup>132</sup>

When Mr. Swann called the Park Police, he had two things to report, a car accident and a dead body. Swann reported the car accident first. Swann first called 9-1-1, then the Park Police. He, like Dale, refused to identify himself. There is no record of Swann's ever having been asked why he refused to give his name.

A car accident occurred just before 6:00 p.m. on the George Washington Memorial Parkway, just below its intersection with Route 123. Because its location was between Fort Marcy Park and the workers' reported location, Swann could only have known about it if he had driven by it or been told of it. They could not have driven by the accident if, as reported, they had been at Turkey Run for some time. Neither Dale nor the park workers related that Dale told them about it,<sup>133</sup> but Swann reported it to the police when he called to report the body.

The official version is that Swann and Stough had been drinking beer in their uniforms at Turkey Run maintenance

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<sup>131</sup> Exhibit 60, Report of FBI interview of Charles Stough, March 30, 1994: "After receiving this information from the occupant of the white van, [Stough] called [Swann] over and believes that the occupant of the white van repeated the same information to [Swann]."

Exhibit 62, Report of FBI interview Francis Swann, March 30, 1994: The van pulled up to where he and [Stough] were sitting. At the time both he and [Stough] were still in their park service uniforms. [Swann] advised that the van driver asked if they worked for the park service and they responded in the affirmative. The van driver then stated words to the effect that "there is a body down at Fort Marcy up by the cannon and could they call the police."

<sup>132</sup> Exhibit 55, Report of FBI interview with Dale, April 14, 1994: "[T]he white male came over... the black male remained by the pickup truck... the white male responded to the effect that he would call authorities... [T]he black male did not come over to his van nor was he a part of any conversation."

<sup>133</sup> See Exhibit 62, Report of FBI interview of Francis Swann, March 30, 1994. And see Exhibit 60, Report of FBI interview of Charles Stough, March 30, 1994.

## Discovery of body

facility, which would have been in view of co-workers, Park Rangers, and supervisors.

The New York Daily News article cited the Park Police Report as its source that Swann and Stough had been drinking; yet that information is not in the Police Report. The first record that the park employees had been drinking appeared in the Reports of their FBI interviews, conducted March 30, 1994, sixteen days after the New York Daily News reported it.

There is nothing in any records, including the Park Police Report,<sup>134</sup> that the park workers ever changed their stories and admitted they were at Fort Marcy Park.

The Park Police did not contact Swann until August 2, 1993, thirteen days after Mr. Foster's death and three days before the conclusion of the first death investigation.<sup>135</sup> Only Swann was interviewed. Stough told the FBI "he was never interviewed by the Park Police regarding this particular incident."<sup>136</sup>

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<sup>134</sup> Exhibit 64, Park Police Report of interview with Francis Swann by Park Police Detective James Morrissette: During the interview with Mr. Swann he stated that "Chuck" [Stough] (tree crew) and himself were sitting outside the Turkey Run Headquarters at approximately 1750 hrs. At this time a large white van, thought to possibly be a General Motors make, drove into the parking area. The van was best described as follows: 1987-1990, Chevy white in color construction writing on the side, Va. Tags unknown, no windows, described as "well used." The operator of the van was described as follows: WM, 47-50 yrs, chunky/heavysset, 220-225 lbs, mostly graying hair, light sun tan, clean shaven with whiskers, possibly gay. This operator advised Mr. Swann that there was a body in the area of the cannon in Ft. Marcy Park. Based on this notification Mr. Swann called the Fairfax County Police and reported the incident. Subsequent to this call he called the U.S. Park Police and made the same report. Mr. Swann stated that there was no other conversation with regards to the body.

<sup>135</sup> Exhibit 65, Deposition of FBI Agent Scott Salter, June 30, 1995. "We [FBI] were there to assist them in conducting the investigation which meant interviewing co-workers... [and] then proceed as the investigation, you know, called for."

<sup>136</sup> Exhibit 60, Report of FBI interview of Charles Stough, March 30, 1994.

## Authorities arrive at the scene

The FBI's Report of its interview with Swann is four pages long. The entire last page, a fourth of it, is redacted. The FBI's handwritten notes of its interview with Swann have not been released. The first of Dale's FBI interview Report is eight pages long. Almost two pages are entirely redacted.

## II. AUTHORITIES ARRIVE AT THE SCENE

County and federal authorities responded to the scene. The Park Police are federal employees of the US Department of the Interior. The Firefighters and the medical examiner, Dr. Haut, are all employed by Fairfax County, Virginia. Almost all the Firefighters are Emergency Medical Technicians, or EMTs, and have medical training. The two Firefighters with the most medical training are referred to as paramedics.

Also in the park when authorities arrived were two civilians, a man and a woman. Although their identities do appear in the public record, they are referred to as Male Civilian and Female Civilian out of deference to their privacy.

The following is a list of those people who are known to have been present in Fort Marcy Park on July 20, after the official discovery of the body.

### Park Police

Officer Kevin Fornshill  
Inv. Christine Hodakievic  
Officer Franz Ferstl  
Sergeant Robert Edwards  
Lieutenant Patrick Gavin  
Investigator John Rolla  
Investigator Cheryl Braun  
Investigator Renee Abt  
Officer William Watson  
Intern with Officer Watson  
Evidence Technician Peter  
Simonello  
Officer Julie Spetz  
Lieutenant Ronald Schmidt

### Fairfax County

Firefighter Todd Hall  
Firefighter Ralph Pisani  
Paramedic George Gonzalez  
Firefighter Lt. James Iacone  
Paramedic Richard Arthur  
Firefighter Jennifer Wacha  
Dr. Donald Haut  
Firefighter Corey Ashford  
Firefighter Roger Harrison  
Firefighter Lt. Wm. Bianchi  
Firefighter Andrew Makuch  
Firefighter Victoria Jacobs

### Civilians

Dale  
Male Civilian