

Inferences

11. Determination of suicide made before police investigators viewed the body

Investigator Braun testified that the "determination [of suicide was made] prior to going up and looking at the body." ⁶²²

X. INFERENCES TO BE DRAWN FROM THE FACTS

We told you 250 pages ago that we would review most of the available evidence, and compare it to the OIC's representations and omissions of the evidence as well as the OIC's conclusions.

The evidence of obstruction of justice or cover-up is more telling than evidence that Mr. Foster did not die at his own hand at the park. What we have seen in our review is an effort to cover up almost all the facts of the case. It is simply not possible for all the anomalies and inadequate explanations to be present without the existence of a conspiracy, a cover-up.

⁶²² Exhibit 101, Senate testimony of Park Police Investigator Cheryl Braun, July 29, 1994: Q. Did he [Edwards] say he thought that the death was by suicide? A. I don't recall exactly how he did it, and he did show the pictures to it that he had snapped. Q. Was it your understanding that a determination had been made as to the cause of death? A. I think we more made that determination. You know, like I said, when we first got the call. It was for a dead body. Then I asked if it was natural or of suspicious nature. And I was told suspicious, so I had them close the gate. Then once we got there, maybe actually I do remember speaking to Lieutenant Gavin. So maybe it was Lieutenant Gavin who might have -- it might have been Lieutenant Gavin then who actually initially explained what the scene was, because I had some knowledge of it when I went to speak with the couple and ask them if they had heard anything or seen anything and ask them about other vehicles that were in the area. Yeah, I would say it was Lieutenant Gavin actually. Q. Did Lieutenant Gavin mention anything about suicide? A. I can't recall. I don't -- I don't recall if he or if that was what we -- it seems to me that we had made that determination prior to going up and looking at the body.

Inferences

The existence of the neck wound and the absence of the official wounds. One would expect the *Report of Investigation by Medical Examiner* to be among the thousands of pages of documents released by the Senate in 1995. Dr. Donald Haut, the only medical doctor to see the body in the park, wrote it. Above "July 20" and his signature appears:

I hereby declare that after receiving notice of the death described herein I took charge of the body and made inquiries regarding the cause and manner of death in accordance with the Code of Virginia as amended; and that the information contained herein regarding such death is correct to the best of my knowledge and belief.

It also states:

July 20, 1993 After anonymous call was received at 18:04 hours US Park Police officers found 48 yrs Caucasian male with self-inflicted gunshot wound mouth to neck on a foot path in Marcey [sic] Park...

This report was found on July 19, 1997, four days after the OIC filed with the Court its Report on Mr. Foster's death, so the OIC's Report had no reason to and did not offer an excuse for its contents.

Assume that any case generating so many thousands of pages of records would produce unexplained anomalies. But we look at all the evidence together, not separately. The *Report of Investigation by Medical Examiner* is not some stray piece of evidence, contradicted by every other piece of evidence in the case. In fact, virtually every other piece of evidence in the case points to the existence of a neck wound and efforts to cover it up. In light of this other evidence, the *Report of Investigation by Medical Examiner* was a lucky find indeed.

On July 14, 1994, Paramedic Richard Arthur, a nine-year veteran paramedic of the Fairfax County Fire & Rescue Department, testified:

Q. Let me ask you this: If I told you that there was no gunshot wound in the neck, would that change your view as to whether it was a suicide or not?

A. No... What I saw is what I saw. I saw blood

Inferences

all over the right side of the neck, from here down, all over the shoulder, and I saw a small - what appeared to be a small gunshot wound here near the jawline. Fine, whether the coroner's report says that or not, fine. I know what I saw.

What could possibly explain this testimony? What is the explanation for the OIC's claim that Arthur "*said he may have been mistaken about such a wound?*" Ours is this: Knowing that they could not just fail to mention Arthur's sworn account, the FBI went back and interviewed him again. They asked him the question, "Isn't it possible that you could have been mistaken?" He said, "No." They asked him again, and again, and again, until they got the response they wanted. He finally said something like, "Yes, anything is possible." The FBI agents left and the OIC had what it needed -- Arthur "*said he may have been mistaken about such a wound.*"

The FBI's use of words in its reports of witness interviews such as "may have," "believed," "recalled," "in his opinion," "noted," and "what appeared," is a red flag. It usually means that the agents could not get the witness to agree with them, necessitating the insertion of one of these qualifying-type words. If the issue of the accuracy of the report ever comes up, like if the report becomes publicly available and the witness reads it, the claim that the agent falsified the witness's account will be more difficult to make. The agent would say something like, "I said you believed you recalled that you thought it was a brown car."

Redactions are also red flags. In the FBI's handwritten notes of its interview with Park Police Investigator John Rolla, appearing immediately below the words "back of head," four lines are redacted. Rolla's testimony is the only record of a description of the exit wound before Dr. Beyer was with the body. Rolla gloved up and probed the head.

He did say "hole." He said, "small hole." He defined his terms. A "large hole" would be one he could have put his finger through. He could not put his finger through what he found. His conclusions were that the "mushy spot" he felt was caused by the skull being fractured from the

Inferences

inside, and that the bullet was still in the head. By all indications, he was right on both counts.

- Q. Was there any attempt to find bone fragments or anything in the ground?
- A. They searched the area... I still can't believe that the hole -- it's a small hole. They may put their finger through it, that's a big hole. His head was not blown out... I probed his head and there was no big hole there. There was no big blowout. There weren't brains running all over the place. There was blood in there. There was a mushy spot. I initially thought the bullet might still be in his head. Could have been the brain pushed up against that hole. There's no big hole or big blowout in his head.

* * *

[B]ecause as we rolled him, he was starting to slide down the hill on us, and it was very steep. At that point, you know, he looked at the back of his head. I looked at the back of his head, and I was wearing gloves, I probed his head and I could feel -- what I felt in his head was mushy here... It just appeared it was mushy there.

What do you think the chances are of there being a half-dollar sized exit wound although Rolla testified that there was only a mushy spot he couldn't get his finger through? There is no record of the existence of the official exit wound before the autopsy. What do you think the chances are of the existence of a half-dollar-sized exit wound and there being no record of the 26 witnesses who saw the body before the autopsy (two medical doctors, two paramedics, six Fire & Rescue workers, ten Park Police, a Fairfax County Police officer, a citizen, an unnamed Park Police intern, an unnamed morgue guard, and two White House officials) having seen it?

We do have Arthur's and Haut's record of having reporting a neck wound. On what does the OIC rely in relating the existence of the official wounds that nobody could see or feel, and of the absence of the neck wound that people did see? Dr. Beyer's word.

If the official exit wound had, in fact, existed, what are the chances that the Teletype from the FBI's Washington Metropolitan Field Office to the "Director, FBI" having

Inferences

included confirmation of the fact that there was "no exit wound" ?⁶²³

⁶²³ See Patrick Knowlton v. Robert Edwards et al., US District Court for the District of Columbia, Civil Action No. 96-2467:

56. On August 10th, 1993, eighteen days after having sent the Teletype, BRYANT, then special agent-in-charge of the FBI's Washington, DC metropolitan field office, appeared with U.S. Park Police Chief Robert Langston and Justice Department spokesman Carl Stern to announce, inter alia, the outcome of the FBI's investigation into Mr. Foster's death. During that press conference, BRYANT stated:

Ladies and gentlemen, I'm Bob Bryant, and I'm the special agent in charge of the Washington metropolitan field office field office of the FBI... [I]nitially, when there is a death of a high government official that's covered by the assault or assassination statutes, the FBI as a matter of course establishes liaison with the police agency that has the primary lead, in this case the United States Park Police. We followed this case from the time we were notified until we were basically of the opinion... that this was a suicide...

* * *

Well, I think while we were with the United States Park Police, it became reasonably apparent that this was a suicide.

* * *

I think what we were trying to do here first was trying to find out if there was a violation, if he'd been harmed, you know, assaulted or assassinated or whatever. We concluded no...

* * *

I suggest to you that it's a very thorough investigation.

* * *

I'd be delighted to answer that question. Any time there is an assault or death under suspicious circumstances of an official covered by the assassination or assault of a federal officer statute, we immediately put with the primary or lead agency, in this case the United States Park Police, to determine the circumstances. As we became convinced that it was, in fact, a suicide, we subsequently started to withdraw...

57. These remarks made by BRYANT were untrue and BRYANT knew them to be untrue. They were overt acts made

Inferences

The Autopsy. Dr. Beyer claimed responsibility for rescheduling the autopsy, and claimed that he did it on his own with no prior discussion with anyone. There is also testimony that Captain Hume did it at Chief Langston's request, which came from the White House. The third version is that Major Hines did on his own. The OIC's discussion of the matter is that "[t]he autopsy occurred on July 21, 1993..." and that "Dr. Beyer had no conversations with members of the White House, the Foster family, or Foster family attorneys in connection with the autopsy."

The autopsy is an important matter. It, along with the state of the body and surrounding area, supplies most of the information on which conclusions of investigations of equivocal deaths are based. In such cases, the autopsy procedure includes the exchange of information between the pathologist and scene investigators. But for this autopsy, the only information from the police to the pathologist was that a nondescript "weapon" was found "in close proximity to the body" -- that is the sum total of the information that Beyer claims to have known. Dr. Beyer left the box in his Autopsy Report requesting the caliber of the weapon blank.

Dr. Beyer checked "Yes" in his Autopsy Report next to the question, "x-rays taken?" and said that the x-rays showed there was not a trace of the bullet's lead left in the head. Later, according to Fiske, there were no x-rays taken. According to the OIC, x-rays were taken, but were unreadable. The mysterious autopsy assistant took the x-rays, according to the FBI, and didn't look at them until towards the end of the autopsy. The new x-ray machine had "numerous problems" making the pictures too dark, but service was not requested for three months, because the pictures were too light.

At 11:00 a.m., an hour after the police arrived to witness it, the autopsy was over. But it had begun well before 10:00 a.m., during which time, according to Morrissette's Report, "the victim's tongue had been removed

to further the cover-up. BRYANT's public pronouncement that the FBI "became convinced that it [Mr. Foster's death] was, in fact, a suicide," made eighteen days after the Teletype confirmed BRYANT's knowledge that there was, in fact, "no exit wound," constitutes active participation by BRYANT in the cover-up.

Inferences

as well as parts of the soft tissue from the pallet." In one of the many examples of its Report's blatant deceptions by omission, the OIC hides that the evidence of the entrance wound was removed before the police arrived, and tells us only that "*Officer Morrissette's report on the autopsy states: 'After briefing him with the available information surrounding the crime scene and the victim he started the autopsy on the victim.'*" We have only Dr. Beyer's word on what evidence he saw and removed.

Dr. Beyer sent "5 slides... [containing] 13 sections of [the] soft palate..." to his own Lab. Why? It is reasonable to assume he did so to have his Lab test for the "large quantity of gunpowder residue" that he saw "on microscopic sections of the soft palate." But his Lab could find not a trace of it. That report from the Northern Virginia Medical Examiner's Lab is still withheld, but an excuse for its finding is offered in a subsequent FBI Lab report. The official finding of the "large quantity" of GSR is the long-standing cornerstone of the official conclusion, having been relied on by expert after expert after expert. The OIC killed this scientific anomaly with silence.

At his July 13, 1994, deposition, Dr. Beyer testified why he was unconcerned with the time of death at the autopsy.

- Q. Is it your practice never to provide a time of death analysis in your autopsy reports?
- A. We may assist them if it appears to be of a critical nature. Other than that, we don't put anything in the autopsy report.
- Q. What would your definition of a critical nature be?
- A. If one had a case where a body -- there was no definite information concerning when the individual had last been seen, who had contact with him, who had a phone call with him. Any indication about the last time they had intake of food and they were found under suspicious circumstances. Then there might be some indication for attempting to make an estimate of time of death.
- Q. Do you think any of those factors were present in this case?
- A. Not that I was aware.

Inferences

- Q. Did you subsequently become aware of whether any of those factors were present in this case?
- A. I made no determinations.

But "there was no definite information concerning when" Mr. Foster "had last been seen," or "who had contact with him." There was an "indication about the last time they had intake of food," and he was "found under suspicious circumstances." Dr. Beyer did not testify that he thought that none "of those factors were present in this case," only that he "made no determinations." This is the state of the evidence, upon which the OIC wants you to rely in taking Dr. Beyer's word on the existence of the official wounds and the absence of the neck wound.

The car. An estimate of time of death was unimportant to Dr. Beyer, but is an important aspect of the case. The reason Patrick Knowlton was yanked into this FBI debacle was Mr. Foster's car, or, more precisely, the absence of it in the Fort Marcy lot late Tuesday afternoon, when Mr. Foster was already dead. As it happened, had the man in the park not been acting in a strange, almost threatening way, we would not be where we are today. Patrick's senses were heightened because of the man's actions, and, having a good memory, Patrick happened to remember the color, shape and contents of the car he used as a buffer to keep his distance from the man. Twenty-seven months later, Patrick was illegally targeted to neutralize his account, and testimony, regarding the car. Only the federal government uses the *modus operandi*, or mode of operation, employed to harass Patrick. It began when he was secretly subpoenaed by the federal government.

It was obstruction of justice, or, specifically, the crime of Witness Tampering. When you finish this Chapter, we would like to decide whether you agree with us that this crime of Witness Tampering has been solved.

We observed that there has never been any record produced or referred to corroborating the long-standing official claim that Mr. Foster left the White House compound in his own car. Senator D'Amato asked the question when FBI Agents Bill Columbello and Larry Monroe appeared before the Senate Banking Committee during its one day hearing. Typically, there was no follow-up question.

Inferences

SENATOR D'AMATO: ...Did the FBI ever attempt to determine what time Mr. Foster departed the White House and do we know if the Secret Service keeps a vehicle exit log?

MR. MONROE: Sir, all of our information right now suggested that Mr. Foster departed the White House on July 20th at approximately 1:00 p.m. Whether or not that departure time was based on interviews or a log by the Secret Service, I am not aware of that, sir, but we know that he left about that time.

SENATOR D'AMATO: Would you be able -- I mean, this investigation, as it relates to the circumstances surrounding Mr. Foster's death, wouldn't you look at the vehicle departure log to determine what time he may have left? Is that a routine thing?

MR. COLOMBELL: Senator, I don't believe the vehicle was logged out of the White House. I don't believe it was parked in an area where it would have been logged out of the White House. We confirmed that he left around 1:00 to 1:15 p.m...⁶²⁴

The White House security system is among the world's most sophisticated. If a record existed of Mr. Foster's having driven, not walked, out of the White House compound, in his own car, alone, around 1:00 p.m., we almost certainly would have heard and read much about it for the last six years. If Mr. Foster did leave the compound, there surely was, and still may be, a record of it.

If we deduce that the reason the record of his departure from the campus has remained withheld is because it is part of the cover-up, the possible reasons for that secrecy are that (1) he walked out, (2) he drove out in his own car accompanied by someone, (3) he occupied another's car, or (4) he was carried and smuggled.

There also had to have been a record generated of his car's departure. Whoever drove the car out of the compound knows the truth of Mr. Foster's demise and participated in keeping it secret. Even if the records of his car's exit no longer exist, one or more Secret Service agents likely knows both how Mr. Foster left the compound and who drove

⁶²⁴ Exhibit 17, Testimony of FBI agents Lawrence Monroe and William Colombell, July 29, 1994.

Inferences

his car out and when. After all, Secret Service Officer John Skyles, the last known person to have seen Mr. Foster alive, said he "specifically remembers" Mr. Foster's having walked out of the West Wing.

Mr. Foster asked Betsy Pond to see what was taking Linda Tripp so long in getting his cheeseburger, so he may have had an appointment after lunch. Had Mr. Foster been headed to his car, Skyles would have seen him, as claimed. But he could also have been headed toward the Old Executive Office Building, or OEOB, where William Kennedy and Craig Livingstone worked in separate office suites. FBI agent Salter testified that he could not remember whether his death investigation included interviewing anyone in the OEOB when he went there the day after the death.

The FBI's report of its interview with William Kennedy reflects that between "8:15 and 8:30 p.m.," Kennedy learned that the body was on its way to the morgue, whereupon Kennedy said that he "had to go to the hospital." He did. So did Livingstone, after which the car keys appeared in Mr. Foster's pocket. The keys not found at the park consisted of two separate key rings, one with four keys and a tab inscribed, "Cook's Jeep Sales," and another with a tab inscribed, "Vince's Keys." These two sets of key rings would be virtually impossible to miss given that Park Police Investigator Rolla testified that he searched the pants pocket searching for, among other things, a suicide note.

To discount the possibility that Kennedy and Livingstone had planted the keys at the morgue, the OIC relies on a secret interview report of an unnamed "officer," a secret hospital log, and its reinterview of Investigator Rolla, relating that the police visited the morgue first. In so doing, the OIC ignored the ambulance logs, the White House Sherburne chronology memo, Lieutenant Gavin's notes, and the testimonies of Secret Service Agent Dennis Martin, Park Police Investigator Rolla, and White House personnel Watkins, Hubbell, Stephanopolis, McLarty, Burton, Livingstone and Kennedy.

The OIC's extraordinary effort to conceal the true circumstances surrounding the discovery of Mr. Foster's keys is related to the fact that the keys were not found at Fort Marcy Park. The absence of the car keys is to be expected -- his car wasn't there either.

Inferences

Conspiracy evidence is interrelated. The court in Williams v. United States, 218 F.2d 276 (1955), likened evidence of a conspiracy to a spider's web.

This evidence, which was quite voluminous and given by many witnesses, may be likened to the web of the spider. No single strand, or even several strands, would be sufficient. Yet when all these strands are considered together, and their interrelations and connections are considered, they form, we think, a complete web, which was more than sufficient to take to the jury the question of a general conspiracy among the appellants.

We have just looked at several interrelated strands of our spider web. Patrick Knowlton and the absence of Mr. Foster's Honda in the Fort Marcy lot are related to the time of death. That is related to the absence of a record of Mr. Foster's car having left the compound. He was last seen headed toward the OEOb, where William Kennedy and Craig Livingstone had offices, Kennedy and Livingstone went straight to the morgue, and the car keys appeared.

Let's look at some of the other strands of evidence in the case.

Blood evidence. Not one observer saw a quantity of blood consistent with the official .38 caliber gunshot wound to the mouth, leaving a half-dollar-sized exit wound.

The configuration of the blood was consistent with the neck wound, but not the official wound, so the OIC's experts concluded that an early observer moved the head, as the FBI and Fiske's experts had concluded. But, as we saw, no one moved the head until Sergeant Edwards was alone at the body site. In spilling the blood toward the small caliber bullet wound in Mr. Foster's neck, and down onto his right collar and shoulder, Edwards obscured and camouflaged the visible evidence of the bullet wound in Mr. Foster's neck. By causing the contact stain on the chin, evidencing the head having been moved to the right, Edwards sought to make it appear that the blood on Mr. Foster's right side collar and right shoulder, which had in fact drained from the neck wound, had emanated from his mouth when the head was turned. Edwards' actions may have also camouflaged the existence of the neck wound by spilling blood over that wound.

Inferences

As we have seen, among the evidence of Edwards' wrongdoing is that before he was alone at the body site, the blood was dry. After Edwards' actions, the blood appeared wet and there was blood on the face that those who saw the body before Edwards' arrival did not see. Edwards' actions while alone with the body are also proven by the accounts of Firefighters Hall and Pisani and Investigator Hodakievic, three early witnesses who, upon viewing photographs taken after Edwards had been alone with the body, related that the photographs depicted more blood than they saw.

To obscure Edwards' actions, the OIC followed the FBI's lead and blamed the blood on the right side and the contact stain on movement of the head by an unnamed early witness, who is said to have been checking Mr. Foster's pulse. This explanation, such as it is, leaves unanswered how all of the early observers could have seen the blood on the right side as upon their inspection of the body, and ignores that Mr. Foster had obviously been dead for some time and that there were therefore no efforts to resuscitate or clear an airway. Considering the importance to the OIC of this excuse for the blood on the right side of the body, it would have announced who moved the head if it could have. But it could not name any witness to the head movement, so it buried that fact in a half-page footnote. The OIC recounts what the post-Edwards witnesses had seen, but fails to recount what those who were at the body site before Edwards had seen.

Edwards' actions were necessary because at 6:00 p.m., when the call went to Fairfax County, the body had not yet been readied for its official discovery.

Photographs. Because Ferstl's Polaroids were the first photographs taken at the body site, they reveal the state of the body before Edwards tampered with it. Park Police Officers Ferstl, Fornshill, Hodakievic and the firefighters, the first officials to see the body, observed only dried blood around the mouth. Later witnesses saw wet blood coming from the mouth and nose and the contact bloodstain on the chin. The crime scene had been tampered with and the Polaroids that vanished can prove it. Because the body had not yet been prepped for its discovery, the photographs showing the state of the body when authorities arrived had to vanish.

Inferences

The Guns. The gun presents three issues. One, was the official wound, and gunshot residue on the hands, consistent with what one would expect from the official death weapon? Second, was the official death weapon the only weapon in Mr. Foster's hand at the park? And third, did Mr. Foster own the official death weapon? The answer to each question is, No.

Bullet trajectories in the human body can be unusual. But usually the bullet spins and the lead breaks up, leaving large exit wounds. The alleged half-dollar-sized exit wound may have been possible from an intra-oral gunshot with the stock .38 caliber high-velocity ammunition, but not very likely. In any event, the Fairfax County personnel with the most medical training, Paramedics Gonzalez and Arthur, as well as Dr. Haut, all the medical experts at the scene, all expressed surprise at the comparatively small size of the wound and paltry amount of blood at the scene. Additionally, because the manufacturer of the .38 caliber high-velocity ammunition never used the type of gunpowder found, if the official weapon had been fired, its ammunition had been reloaded. Mr. Foster did not reload ammunition. And the deposits of gunshot residue on Mr. Foster's hands all but prove that he could not have fired it.

Second, was the official death weapon the only weapon in Mr. Foster's hand at the park? No. Like the wounds to the body, there is a telling gap in the evidence. Of all the witnesses who saw the body before Edwards was alone with it, only two saw a weapon and distinguished the type. Two Police Officers, Fornshill at the body site for ten minutes, and Hodakievic at the site for about 30 minutes, never saw any weapon. Other pre-Edwards witnesses, including firefighter Todd Hall and Officer Ferstl, saw some kind of weapon but we don't know whether it was a revolver, like the official weapon, or a semi-automatic, like the ones the Park Police carry.

The two who testified what type of weapon they saw are Paramedics Gonzalez and Arthur. Gonzalez did testify that it was a revolver, but he also testified that he looked at a glance and didn't know the type of weapon it was. Arthur, on the other hand, told the FBI he was "100% sure" it was a semi-automatic, and drew a picture of the difference while under oath. Edwards' actions were necessary because at 6:00 p.m., when the call went to

Inferences

Fairfax County, the gun, like the body, had not yet been readied for its official discovery.

Did Mr. Foster own the official death weapon? No. The only family member who ever reportedly identified it, Mrs. Foster, was tricked into doing so by being shown a silver revolver, the same color as the gun that Mr. Foster did, by all accounts, own. According to the family member who was most familiar with the subject gun collection, Mr. Foster's nephew Lee Bowman, Mr. Foster did not own a black revolver. And there was no matching ammunition recovered from his Little Rock or Washington homes. The official death weapon, being a 1913 year-model, was untraceable. First, the FBI reported that Mr. Foster's gun (singular) was in its usual location the night of the death. Years later, there were two guns, one of which was missing, and according to Web Hubbell and the OIC, "*the missing gun was the one found at the scene.*" Where is the silver gun now? The OIC is grasping when it offers Dr. Lee's findings of the trace evidence in the oven mitt (neither inventoried nor photographed) in the car at the park. The ownership of the weapon, as the OIC points out, is a fact of some consequence.

Discovery of the body. The official version of the discovery of the body is worth scrutinizing because of some unusual aspects of the official version and because of the state of the body when authorities arrived. As we have seen, all indications are that the wrongdoers had not yet prepared the body for authorities to inspect it when the call was placed to Fairfax County 9-1-1. So, whoever was in the park when the body was first discovered may have seen the body, or other people, or cars in the park.

Officially, Dale discovered the body, drove to the park maintenance facility, told Swann and Stough about it, and drove off without leaving his name. If Swann and Stough had, in fact, been drinking beer in their uniforms, as the New York Daily News reported, they more likely would have chosen to do so in the relative seclusion of Fort Marcy Park over the Park Headquarters at Turkey Run, which would have provided no seclusion from co-workers or supervisors. If Swann had been drinking beer at Fort Marcy Park in his Park Service uniform, that would explain why he refused to provide his name to authorities. Swann's failure to tell the Park Rangers at the Turkey Run

Inferences

Headquarters about the dead body would also be consistent with his not wanting it known that he had been drinking.

If Swann and Stough had seen Mr. Foster's body, they may have noticed that he had been shot. That would explain why Stough knew that the body had a bullet wound in it, while Dale, who was officially Stough's only source of information regarding the state of the body, said he thought that Mr. Foster had died of a blow to the head. And, had Swann and Stough driven from Fort Marcy Park to Turkey Run, they would have seen the car accident, which Swann reported when he called the Park Police.

The Fiske Report claimed that after its "detailed analysis" of the information provided by Dale, including the "short conversation held with" the Park Service employees, Dale passed the "test" of "veracity." But virtually all the details of Dale's version of his conversation with the Park Service employees disagree with theirs.

If Dale had reported the body to Swann and Stough while they were all at Fort Marcy, that would explain why the FBI's reports of these interviews were redacted. So, perhaps the Mike McAlary's March, 1994, New York Daily News story, *Aide's Suicide is Confirmed by Heads-up Cops*, was accurate when it reported:

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.

Given the state of the body site when officials began arriving, and the anomalies in the official version of events of the body's discovery, we believe that the OIC's portrayal of the discovery of the body is not completely true.

Notification. Following Senator D'Amato's lead, the OIC declined to reveal when the Park Police, Fire & Rescue workers, the FBI, or White House personnel other than Helen Dickey learned of the death. Some assume that the official version, that "*the Secret Service was notified of Mr. Foster's death at about 8:30 p.m...*", was concocted to give

Inferences

the White House deniability of having sanitized Mr. Foster's White House office in those first few hours of his death. Perhaps, but another motive would be to provide an excuse for the FBI's failure to respond to Fort Marcy Park.

Review. We have proved the existence of the neck wound and the absence of the official wounds. Had the official exit wound been there, someone would have seen it and Rolla could have put his finger through it. The pathologist refused to tell the police the name of the man who had helped remove the only evidence of the official entrance wound before the police arrived -- to see the beginning and end of the autopsy. It probably wasn't Mr. Foster who drove his car out of the White House compound, and Mr. Foster certainly didn't drive his own car to the park. (It was a year after the harassment that we figured out the import of Patrick's account.) When authorities arrived at the body (if the police were not already there - the FBI was conspicuously absent), the head was facing straight up and blood was on the right side. Had Mr. Foster's head rested on his right, blood would be on his right side. But his head would not have gone back to the straight up position as it was found. Edwards provided the excuse. We proved it and so can the missing photographs. The gun, by all accounts, did not belong to Mr. Foster, it changed from a semi-automatic model to a revolver before it was retrieved from his hand, the wounds are inconsistent with his having fired it, the ammunition would have to have been reloaded, and the gunshot residue patterns found on the hands would not have been left by Mr. Foster's having fired it. Hall seems to have heard something in the woods, seen someone running away from the body site, and the official version of the discovery of the body does not appear to be entirely true.

Other anomalies include that the official fatal bullet was never found, the conclusion of suicide was made before investigators looked at the body, the position of body was unusually straight, and there were no fingerprints found on the gun, ammunition, car, or "suicide note." There was no analysis of the two blond hairs found on Mr. Foster. First there was no blood on the eyeglasses and gun and no dirt on the shoes, then there was. The excuses for the absence of x-rays, photographs, and car keys change with time.

The OIC had its pick of pricey experts, to whom it gave the evidence supporting the official version, and

Inferences

selectively quoted from their reports. Dr. Lee's report may explain what "gunpowder-like particles" are. It may show us the photographs of the "blood-like" stains and the "not coherent" dirt on the shoes. But Lee's report is secret. A Library of Congress clerk told us that Dr. Lee's report would probably be available for inspection and photocopying there in 50 years. The OJ Simpson defense team hired Dr. Lee to report that the crime scene appeared to have been tampered with, and the OIC hired him to report that the Fort Marcy crime scene appeared not to have been tampered with.

Evidence of cover-up. The evidence of the wounds, autopsy, car, blood, gun, photographs, notification, and discovery of the body do not, in and of themselves, prove the culpability of Mr. Starr's office. For that, we look to see whether the OIC covered up this evidence. Clearly it did.

Much of the record in the case remains hidden. Seventy-five percent of the OIC's footnotes refer the reader to documents that are secret. Many of the records generated under the first two investigations, first the FBI/Park Police and later the FBI under Fiske, are entirely withheld or heavily redacted. Follow-up questions in depositions and Senate testimony are almost nonexistent. Notwithstanding the state of the record, evidence of cover-up pervades it.

The Report's efforts to hide the truth are easily detected. All sections of the Report contain numerous examples of blatant dishonesty by omission and rely on the secret reports generated by the OIC or its experts. It then ignores what it cannot explain. Relevant evidence was obviously withheld from its experts, whose authoritative-sounding secret reports are quoted throughout the Report. Evidence is largely scattered throughout the Report, making analysis more difficult.

A significant amount of the OIC's Report is devoted to irrelevant or misleading issues, such as whether there was a briefcase in the Arkansas Honda without disclosing that the car was not Mr. Foster's. Similarly, the OIC debates whether the quantity of blood at the scene supports the conclusion that the body was moved, without disclosing the one thing needed to analyze that issue, a true description of the wounds. Other examples include discussions of

Inferences

whether Helen Dickey learned of the death too early, and the depression issue, which we look at briefly in the next Chapter.

The OIC used the autopsy as the cornerstone of its conclusion, had its experts validate its findings, and summarily dismissed evidence of there being a bullet wound in Mr. Foster's neck.

Look at examples of how new factual accounts differ from those previously memorialized, so that, according to the OIC, the facts now fit the conclusion of suicide in the park.

Witness reference in the OIC's Report	Date new statement memorialized	New account according to the OIC
Park Police Investigator John Rolla, p. 26, fn. 50	February 9, 1995 -- 19 months after death	Statement changed to "noted a wound out the back of the head" that he did not report in his deposition
Park Police Investigator Christine Hodakievic, p. 26, fn. 50	February 2, 1995 -- 19 months after death	Statement changed to "noted a wound out the back of the head" that she did not report before
Paramedic George Gonzalez, p. 33, fn. 77	May 15, 1996 -- 34 months after death	Deposition testimony changed, the wound he testified was on the right side of Mr. Foster's head was "not what he intended to report"
Paramedic Richard Arthur, p. 34, fn. 77	April 24, 1996 -- 33 months after death	Changed his deposition to say he "may have been mistaken" about the neck wound he testified he was sure he had seen
Park Police Investigator John Rolla, p. 52, Fn. 148	April 17, 1996 -- 33 months after death	Changed his account of what he found in Mr. Foster's car to "recalled the oven mitt in the glove compartment" that he had not reported before

Inferences

Witness reference in the OIC's Report	Date new statement memorialized	New account According to the OIC
Park Police Investigator Cheryl Braun, p. 52, Fn. 148	February 9, 1995 -- 19 months after death	Changed her account of what she found in Mr. Foster's car and "recalled the oven mitt in the glove compartment" that she had not reported before
Paramedic George Gonzalez, p. 66, Fn. 191	January 10, 1995 -- 18 months after death	Changed his statement to say that firefighter Todd Hall may have checked Mr. Foster's pulse, he had testified that Mr. Foster appeared to have been "obviously dead" for 2 to 4 hours
Firefighter James Iacone, p. 66, Fn. 191	January 10, 1995 -- 18 months after death	For the first time stated that he "checked the pulse" after paramedics Arthur and Gonzalez concluded Mr. Foster was obviously dead for several hours
Investigator Renee Abt, p. 67, Fn. 192	February 9, 1995 -- 19 months after death	Changed her statement to say she remembered more blood under Mr. Foster's head
Park Police Technician Peter Simonello, p. 67, Fn. 192	February 7, 1995 -- 19 months after death	Changed his statement to say he saw more blood under Mr. Foster's head
Dr. Donald Haut, p. 67, fn. 192	February 6, 1995 -- 19 months after death	Changed his statement to say he saw a pool of blood under Mr. Foster's head
Park Police Investigator Christine Hodakievic, p. 67, Fn. 192	February 7, 1995 -- 19 months after death	Changed her statement and recalled more blood

Inferences

Witness reference in the OIC's Report	Date new statement memorialized	New account According to the OIC
Park Police Investigator John Rolla, p. 67, Fn. 192	April 17, 1996 -- 33 months after death	Changed his statement and recalled more blood
Unnamed Reporter	April 4, 1996 -- 33 months after death	New witness who recalled a blood spot on the ground
Park Police Officer Kevin Fornshill, p. 69, Fn. 200	January 11, 1995 -- 18 months after death	Changed his deposition testimony from reporting volunteers at Fort Marcy Park to saying there were "no volunteers"
Firefighter Todd Hall, p. 70, Fn. 200	January 5, 1995 & May 13, 1996 -- 18 & 34 months after death	Changed his statement from hearing and seeing someone in the woods to saying it "must have been traffic" on Chain Bridge Road
Park Police Investigator John Rolla, p. 73, Fn. 214	January 11, 1995 -- 18 months after death	Changed his deposition statement from saying he took photos of the back of Foster's head to say he "did not" take those photographs but only intended to take them
Park Police Sergeant Robert Edwards, p. 74, fn. 215	January 12, 1995 -- 18 months after death	First and only record of being interviewed reported he said he did not take any photographs that other police officers at the scene reported seeing him shoot
Park Police Investigator John Rolla, p. 74, Fn. 216	April 17, 1996 -- 33 months after death	Changed his account from his testimony that he had "emptied the pockets" to he "did not reach into the bottom of the pants pocket"

Inferences

Witness reference in the OIC's Report	Date new statement memorialized	New account According to the OIC
Fairfax County Officer David Tipton, p. 74-75 Fn. 220	February 10, 1995 -- 19 months after death	Contradicted the previous testimony by Investigator Rolla who said Kennedy and Livingstone were in the room with Mr. Foster's body by saying they only viewed the body through a glass window
Dr. James Beyer p. 76, fn. 222, fn. 223	September 11, 1995 -- 26 months after death	Contradicted his own autopsy report that reflected x-rays were taken and the Park Police report of his comments on the x-ray results by saying the machine was "not working"
Paramedic Richard Arthur, p. 79, Fn. 228	April 24, 1996 -- 33 months after death	Changed his previous account that he was "100% sure" he saw a semi-automatic pistol in Mr. Foster's hand to say he "must have been mistaken"
Firefighter Jennifer Wacha, p. 79, Fn. 229	January 10, 1995 -- 18 months after death	Changed her account from offering no observations of a gun to saying it was consistent with the gun retrieved at the scene

The authors of the Report are unidentified because the OIC's Report is nothing more than another layer of the same, six-year old, ongoing Justice Department cover-up. As you will see below, the OIC conceals the FBI's participation in the initial 17-day investigation, the Fiske probe, in its own probe, and deceptively implies that Congress investigated the death.

Pundits have correctly pointed out that one or two inexplicable points of evidence do not prove a cover-up. The only way to look at the evidence is to look at the big picture. In this case, the OIC's 114-page Report has evidence of cover-up on almost every page. A look at the big picture, all of the Report's claims together, cumulatively, is a look into the anatomy of the cover-up. The foregoing review of the public record of the case, made

State of mind

without experts or interviews of witnesses, demonstrates that not one substantive point in the OIC's Report stands up to scrutiny. If one or two inexplicable points can be dismissed, what possible conclusion can you draw from every point in the OIC's Report being contradicted without plausible explanation?

Even though the discovery process in Patrick Knowlton's civil rights lawsuit has not yet begun, and so we have not yet exercised subpoena power, we have exposed the OIC's Report for what it is -- clear and convincing evidence of cover-up. The government's finding of the absence of a cover-up is just not in accordance with the truth.

X. STATE OF MIND

The OIC devotes fourteen pages to addressing Mr. Foster's state of mind, more pages than to any other single issue. The issue of whether Mr. Foster was suffering from depression is irrelevant in light of the physical evidence in the case. Although the OIC failed to prove that Mr. Foster was depressed, we will not review the record of his mental state nor compare it to the OIC's claims on the issue. Most of the state of mind evidence is in the footnotes above under Chapter I, *Background*, should you care to review it.

First, we make some observations about the OIC's psychologist's opinion. Then, we see that the oft-repeated verdict of depression and suicide originated in the press, and that early press accounts found their way into the final official expert opinion.

1. The OIC's psychological autopsy is unreliable

The OIC quoted Dr. Alan Berman's secret, 16 or so page report 28 times.⁶²⁵ Dr. Berman⁶²⁶ performed a "psychological

⁶²⁵ OIC, p. 98, fn. 303: "Berman Report at 3. Dr. Berman noted that '[r]ecent studies . . . have documented a significant relationship between perfectionism and both depression and suicidality, particularly when mediated by stress.' Id. at 13." OIC, p. 98, fn. 304: "Id. at 3." OIC, p. 99, fn. 305: "Id. at 5." OIC, p. 99, fn. 306: "Id. at 13." OIC, p. 99, fn. 307: "Id. at 7." OIC, p. 99, fn. 308: "Id. at 14." OIC, p. 99, fn. 309: "Id. at 4." OIC, p. 99, fn. 310: "Id. at 7" OIC, p. 100,