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hospital.⁵⁹¹ Kennedy's testimony also seems to reflect that they were traveling in one, not two, cars.⁵⁹²

IX. OTHER ANOMALIES

1. Analysis of blood on eyeglasses and gun

The OIC claims that blood was visible to the naked eye on both sides of both lenses of the eyeglasses found at the scene, apparently claiming that it had emanated from the contact entrance wound in the soft palate.⁵⁹³

OIC p. 57:

"Dr. Lee stated that '[b]loodstains were found on both sides of the lenses' of Mr. Foster's eyeglasses. These bloodstains 'were less than or equal to 1 mm in size.'"

This finding conflicts with the FBI lab's May 9, 1994 Lab Report, reporting that the results of its serological analysis on the glasses was, "no blood."

"No blood was identified on Q3 [eyeglasses]."⁵⁹⁴

Regarding the gun, we find the same anomaly. In 1994, the FBI lab reported that "limited areas on the outer and inner surfaces of the barrel were selected and subjected to chemical testing for the presence of blood with negative

⁵⁹¹ Exhibit 174, Deposition of Cheryl Braun, July 19, 1995: "Q. At the hospital did you meet someone named Kennedy? A. No, we spoke to them on the phone. Q. You spoke to them? A. Right."

⁵⁹² Exhibit 46, Deposition of William Kennedy, July 11, 1995: "As I say, I was in pretty bad shape, but I got back in the car to go get my wife so that we could go to the Fosters."

⁵⁹³ OIC p. 62, fn. 183: Id. Similarly, the panel of pathologists concluded that the large quantity of gunpowder residue on the soft palate "indicates that Mr. Foster placed the barrel of the weapon into his mouth with the muzzle essentially in contact with the soft palate when he pulled the trigger." Pathologists' Report at 1...

⁵⁹⁴ Exhibit 95, FBI Lab Report, May 9, 1994.

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results."⁵⁹⁵ Similarly, the Fiske Report, relying on that probe's pathologists, explained that the absence of blood on the gun did not refute the official conclusion.

The Pathologist Panel found that "[t]he absence of visible blood on the revolver is not inconsistent with the self-inflicted bullet wound [he] sustained. Visual or chemical identification of blood on the weapon in gunshot wound suicides is a common but by no means universal finding." Pathologist Report, ¶ 2.⁵⁹⁶

According to the OIC, the Fiske Report's explanation was unnecessary. Dr. Lee reported finding blood on the gun.

OIC, p. 39:

"Dr. Lee examined the gun and reported that '[s]mall specks of brownish-colored deposits were noted.'^{fn96} Dr. Lee found that '[s]ome of these deposits gave positive results with a chemical test for blood' although the 'quantity of sample present was insufficient for further analysis.'^{fn97}

OIC, p. 78:

"As explained by... Dr. Lee... traces of blood evidence were derived from the gun..."

2. Missing bullet

In its two page section entitled *Search for Bullet*, the OIC relates that the fatal bullet could not be found in during the initial 17-day FBI/Park Police investigation ("*Park Police... investigation*"⁵⁹⁷) or during the FBI probe

⁵⁹⁵ Exhibit 27, FBI Lab Report, June 13, 1994.

⁵⁹⁶ Exhibit 12, Fiske Report, June 30, 1994.

⁵⁹⁷ OIC, p. 94: During the Park Police, Fiske, and OIC investigations, searches were conducted of Fort Marcy Park for the bullet that caused Mr. Foster's death. On July 22, 1993, four Park Police personnel (Hill, Johnson, Rule, and Morrissette) searched with a metal detector the immediate area where the body was found. Their search for the bullet was unsuccessful.

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under Fiske ("*[i]nvestigators in Mr. Fiske's Office*"⁵⁹⁸). The OIC relates that it conducted a "*broader search... utilizing information obtained through ballistics tests [but that it too] did not locate a bullet fired from the recovered gun from Mr. Foster's hand.*"

But, the OIC concludes, its failure to find the bullet "*does not affect the conclusion that Mr. Foster committed suicide in Fort Marcy Park*" because "*the bullet could have... landed well outside the park..., there is a distinct possibility... [that] the bullet... ricochet[ed], [and] [a]nother variable is that 'Foster's head could have been turned to one side or the other when the shot was fired.'*"⁵⁹⁹

⁵⁹⁸ OIC, p. 95: "Investigators in Mr. Fiske's Office conducted a search in the area where Mr. Foster's body was found. Their search for the bullet fired from Mr. Foster's gun was unsuccessful."^{fn293} See also Exhibit 12, Fiske Report, June 30, 1994: "On April 4, 1994, sixteen individuals from the FBI Lab went to Fort Marcy Park to conduct a search... In an attempt to locate the bullet, FBI Lab personnel surveyed and marked out a grid in what the FBI Lab determined was the most likely area..."

⁵⁹⁹ OIC, p. 95-96: With the assistance of Dr. Lee, the National Park Service, and a large number of investigators, the OIC organized a broader search of Fort Marcy Park for the fatal bullet. The search was led by Richard K. Graham, an expert in crime scene metal detection. The search plan was devised utilizing information obtained through ballistics tests performed by the Army Research Laboratory, Aberdeen Proving Grounds, Maryland. The search did not locate a bullet fired from the recovered gun from Mr. Foster's hand. That the search did not uncover the fatal bullet does not affect the conclusion that Mr. Foster committed suicide in Fort Marcy Park. Because a search covering the maximum range estimates "would have included a vast area..., a search which was limited in scope to the highest probability area, closer to the minimum range estimates, was undertaken."^{fn294} In other words, while the OIC covered a broader area than previous searches, "the maximum range estimates" predicted the possibility that "the bullet could have cleared the tree tops in Ft. Marcy and landed well outside the park."^{fn295} Moreover, although lines ultimately were laid out within the park along the outer limits of a 90 degree arc to a distance of 175 meters,^{fn296} which represented the highest probability areas,^{fn297} a full search of even 90 degree-175 meter range would have included areas outside the park that were not searched.^{fn298} In addition, because dense foliage and trees

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A condition precedent to the OIC's conclusion that the bullet could have "*landed well outside the park*" would, of course, be the existence of an exit wound in the top of the back of the head.

The authors of the Fiske Report almost seemed to know that the bullet was not in the park.

"It would have been enormously time-consuming, costly, and in all likelihood unproductive, to have searched the entire park for the bullet."⁶⁰⁰

3. Reported lack of dragging-type soil patterns

The OIC's claim that Dr. Lee found no evidence that would indicate that the body was dragged is another example of the unreliability of Dr. Lee's conclusions.

OIC, p. 51:

"Dr. Lee reported that '[n]o dragging-type soil patterns or damage which could have resulted from dragging-type action were observed on these pants.'^{fn143}"

Yet, the police dragged the body up a steep, dirt embankment, according to Rolla's testimony.

surround the area where Foster's body was discovered, and since there is a...cannon approximately 12.5 feet directly behind the location where the body lay, there is a distinct possibility the bullet's trajectory was altered due to its striking or ricocheting off a natural or man-made obstruction.^{fn299} Another variable is that "Foster's head could have been turned to one side or the other when the shot was fired."^{fn300}

See also OIC, p. 14, fn. 20: "As Dr. Lee explained, a perfect reconstruction of the circumstances of Mr. Foster's death was not possible at the time of the OIC's investigation. The reasons include... the unknown location of the fatal bullet, which makes complete reconstruction of the bullet trajectory difficult. Lee Report at 485."

⁶⁰⁰ Exhibit 12, Fiske Report, June 30, 1994.

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"[I] rolled that body... and he began sliding down the hill... to keep him from sliding all the way down the darn embankment... I pulled him, he slid down..."⁶⁰¹

And, according to the FBI's report of its interview with Park Police Officer Christine Hodakievic, she "recall[ed] the decedent's body starting to slide down the hill..."⁶⁰²

4. Analysis of dirt on shoes

The OIC's analysis of the dirt on the shoes, when compared to Fiske's, provides another example of the facts having changed, but the conclusion remaining the same.

Dr. Lee reported that examination of a photograph of Mr. Foster's shoes taken by the FBI Laboratory at the time of its initial examination revealed brownish smears on the left heel.^{fn136} *Dr. Lee further stated that his own macroscopic and microscopic examinations of the shoes revealed the presence of soil-like debris.*^{fn137} *(The FBI Laboratory photo of the shoes, taken in 1994 at the time of the Laboratory's examination of the clothing, shows traces of soil visible to the naked eye.) Dr. Lee found that "[t]race materials were located embedded in the grooves of the sole patterns at the heel of [the left shoe]. A portion of this material subsequently was removed. Microscopic and macroscopic examination showed this material to contain mineral particles, including mica, other soil materials, and vegetative matter."*^{fn138} *Dr. Lee stated that this fact "indicates the sole of the shoe had direct contact with a soil surface containing these materials."*^{fn139}

In a footnote to this passage, the OIC explains that the FBI Lab's "earlier" report of the absence of soil on the shoes was simply a "misunderstanding." When the FBI reported that there was "no coherent soil," according to the OIC, it really meant that it in fact found soil on Mr.

⁶⁰¹ Exhibit 6, Deposition of Park Police Investigator John Rolla, July 21, 1994.

⁶⁰² Exhibit 81, Report of FBI interview of Christine Hodakievic, May 2, 1994.

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Foster's shoes, but that its amount was insufficient for comparison.

OIC, p. 50, fn. 139:

...There has been misunderstanding of the statement in an earlier FBI Lab Report that no "coherent soil" was found in the samples. FBI Lab Report, 5/9/94, at 12 (emphasis added). The FBI Lab Report's statement regarding a lack of coherent soil simply means, as explained in the preceding paragraph, that there was insufficient soil to effect a comparison with soil samples from Fort Marcy Park. But a lack of coherent soil is not the same as a lack of any trace soil. And as Dr. Lee concluded, examination of Mr. Foster's shoes revealed particles of soil materials, including that the sole of the shoe did in fact have direct contact with a soil surface...

Apparently, according to the OIC's version, the authors of the Fiske Report had neglected to look at the "photograph of Mr. Foster's shoes taken by the FBI Laboratory at the time of its initial examination [which] revealed brownish smears on the left heel." Had they done so, they would have seen the "soil-like debris... visible to the naked eye," which was "insufficient [in amount]... to effect a comparison with soil samples from Fort Marcy Park." The OIC's version is that the following question and answer provided by the Fiske Report was based on the same "misunderstanding."

Why was no dirt found on Foster's shoes?

The FBI Lab did find mica particles on Foster's shoes and socks. These mica particles are consistent with the mica that is found at Fort Marcy Park. It was approximately 90 degrees Fahrenheit and dry on the day Mr. Foster died. Foliage leading up to and around Foster's body was dense. As a result, it is unlikely that there was a great deal of exposed moist soil in the park that would have soiled Foster's shoes.⁶⁰³

⁶⁰³ Exhibit 12, Fiske Report, June 30, 1994.

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5. Hair analysis

The OIC relates that two hairs were found on Mr. Foster's clothing that did not belong to him. The OIC declined to compare these dissimilar hairs to those of anyone in Mr. Foster's circle, offering as its excuse that any match would be to "persons already known to have had contact with Mr. Foster." The OIC thus offers no sound reasoning for its decision not to determine whether Mr. Foster had contact with unknown persons.

OIC, p. 55:

In debris collected from Mr. Foster's clothing, the FBI Laboratory reported finding two blond to light brown head hairs of Caucasian origin that were suitable for comparison purposes and dissimilar to those of Mr. Foster.^{fn154} The hairs did not appear to have been forcibly removed.^{fn155} Hair evidence can become important or relevant in a criminal investigation when there is a known suspect and a significant evidentiary question whether the suspect can be forensically linked to another person (a rape or murder victim, for example) or to a particular location.^{fn156} If the suspect is a stranger to the victim or the scene, the presence of the suspect's hair is relevant in assessing whether he or she had contact with the victim or scene. In this case, however, the only known individuals who reasonably might have been compelled to provide hair samples were persons already known to have had contact with Mr. Foster.

A necessary component of this reasoning would have to be the foregone conclusion of no criminal activity. Because there was criminal activity, one would want to see if that hair was dissimilar from that of known persons, to see whether Mr. Foster had contact with an unknown person. Any such person may know what happened or even be an assailant.

6. Fiber analysis

The OIC declined to determine through hair analysis whether Mr. Foster may have had contact with unknown persons, but decided to explore through fiber analysis whether Mr. Foster may have been at an unknown place. This

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is a change from the FBI's position in 1994, when it declined to undertake any carpet fiber analysis because it "had no way to match those particular fibers up."⁶⁰⁴

According to the OIC, the FBI Lab found thirty-five "definitive carpet-type" fibers on Mr. Foster's clothing, 23 of which were white and 12 of which were of "various colors, including blue gray, blue, gold-brown, light brown, gray, pink, and orange." The Report tells us that with the help of "OIC investigators," the FBI Lab conducted comparisons with carpets from his "workplace," car and rented Washington home. The OIC's reported results were that "the white fibers obtained from Mr. Foster's clothing were consistent with the samples obtained from... [the] 1993... [rented] house in Washington" and that four of the non-white fibers were consistent with samples obtained from the White House or Mr. Foster's car.⁶⁰⁵

⁶⁰⁴ Exhibit 178, Senate testimony of FBI Agent Lawrence Monroe, July 29, 1994: Q. The FBI identified carpet-type fibers of various colors... Does the FBI have any idea where that came from? Was any attempt made to match that with any carpet in his home, car, or office? A. No, sir, and for the same reasons I provided in response to your first question relative to the hairs... We had no way to match those particular carpets up, outside the fact that they most likely came from his residence or from his office...

⁶⁰⁵ OIC, p. 56: The FBI Laboratory reported 35 definitive carpet-type fibers in the debris collected from the clothing. Of those fibers, 23 were white fibers. OIC investigators sought to determine a possible source for the fibers^{fn157} -- for the white fibers in particular, in light of the number of white fibers in comparison to the limited number of fibers of other colors.^{fn158} The logical known sources for possible comparison were carpets from locations with which Mr. Foster was known to have been in contact -- his car, home, and workplace. OIC investigators obtained carpet samples from these sources, including from a white carpet located in 1993 in the house in Washington where Mr. Foster lived with his family. The FBI Laboratory determined that the white fibers obtained from Mr. Foster's clothing were consistent with the samples obtained from that carpet.^{fn159}

OIC, p. 56, fn. 158: The remaining 12 were various colors, including blue gray, blue, gold-brown, light brown, gray, pink, and orange. No more than three fibers of any of these colors was found. OIC Investigators' Memorandum (FBI

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OIC, p. 56-57:

In sum, therefore, the carpet fiber evidence -- the determination that the white fibers were consistent with a carpet from the Foster's home and the variety and insignificant number of other fibers -- does not support speculation that Mr. Foster was wrapped and moved in a carpet on July 20.^{fn160} Indeed, the fiber evidence, when considered together with the entirety of the evidence, is inconsistent with such speculation.

We agree with the OIC that the FBI's fiber findings probably do not support the conclusion that Mr. Foster was wrapped and moved in a carpet (because there would probably be more fibers -- apparently unbeknownst to the OIC). No one to our knowledge has ever said that he was moved in a carpet. Moreover, the OIC's "*considered together with the entirety of the evidence*" point is wearing thin.

The OIC asks its readers to trust that the FBI retrieved a sample of carpet Mr. Foster's car, disposed of in 1993, and from a carpet located in his rented Washington home in 1993. Yet the FBI's Lab now relates that it found pink and orange fibers, among others, but according to its 1994 Report, these colors were not among those it had earlier had found.⁶⁰⁶ And the OIC's conclusion (p. 56, fn. 158) that "*[t]he variety of colors suggest that those fibers did not originate from a single carpet*" fails to contemplate the possibility of a multi-colored carpet, such as an Oriental.

Additionally, six different colors of carpet fibers were found on the clothing that was bagged at the autopsy on July 21,⁶⁰⁷ and all six colors of carpet fibers were found

Lab Reports on Fibers). The variety of colors suggest that those fibers did not originate from a single carpet.

OIC, p. 56, fn. 159: "Id. The Laboratory also determined that four of the non-white fibers were consistent with samples obtained from the White House or Mr. Foster's car. Id."

⁶⁰⁶ Exhibit 95, FBI Lab Report, May 9, 1994: "These colors include white, tan, gray, blue, red and green... It was also noted that a number of red/dark pink wool fibers were found."

⁶⁰⁷ Exhibit 95, FBI Lab Report, May 9, 1994.

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on his jacket and tie,⁶⁰⁸ retrieved from his car and bagged on July 20. The OIC hides this anomaly by falsely reporting that all of the clothing was "packaged together before trace evidence was obtained."

OIC, p. 55, fn. 154:

FBI Lab Report, 5/9/94, at 11; OIC investigators' Memorandum, 3/2/95, at 4 (Lab Conference). As explained above, the clothing was packaged together before trace evidence was obtained, and particular trace evidence cannot be conclusively linked to particular items of clothing that Mr. Foster was wearing at the time of his death.

7. Bone chip

The OIC claims to have found a bone chip from debris from clothing years after the FBI lab found none.

OIC, p. 51-52:

Dr. Lee examined debris collected from Mr. Foster's clothing and reported that the debris was "found to contain a bone chip."^{fn144} Dr. Lee stated that DNA was extracted from this bone fragment and amplified, and the DNA profile generated for this bone sample was consistent with the DNA types of Mr. Foster.^{fn145} Based on his analysis of the evidence, Dr. Lee concluded that "[t]his bone chip originated from Mr. Foster and separated from his skull at the time the projectile exited Mr. Foster's head."^{fn146}

The three footnotes to this passage refer the reader to page 493 of the still-secret Lee Report. We thus have no clues as to how a bone fragment, which is said to have originated from the alleged inch-and-quarter head wound in the back of the skull, could have landed on his clothing while no other fragments were found on other clothing, or in the soil or the vegetation surrounding the body. Nor do we know whether the Lee Report purports to explain how the FBI Lab missed finding the bone fragment from the "debris [it] collected from Mr. Foster's clothing."

⁶⁰⁸ Exhibit 95, FBI Lab Report, May 9, 1994.

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8. Unusual position of body

The position of Mr. Foster's body, lying straight with his arms to his sides,⁶⁰⁹ was unusual, according to Richard Arthur and George Gonzalez, the two paramedics who observed the body. Arthur testified that "he was just laying perfectly straight, hands at his side."⁶¹⁰ He "doubt[ed] that it was a suicide."⁶¹¹ Gonzalez similarly testified that it was so unusual that he had never seen it before.

- Q. Did anything strike you as peculiar or unusual about the scene?
- A. The fact that he was straight, laid out straight, yes. That's peculiar.
- Q. Have you ever seen a body in that position as a suicide?
- A. No.⁶¹²

9. Other unidentified persons present at the park

In addition to the strange acting man Patrick Knowlton saw in the park, and the man that the Male and Female civilians saw, there is a record of other witnesses having seen other unidentified individuals in the park late in the afternoon of Mr. Foster's death. These unidentified people

⁶⁰⁹ Exhibit 81, Report of FBI interview with Christine Hodakievic, May 2, 1994: According to the FBI's report of its interview with her, "[s]he advised that she... recalls his arms being straight at his side."

⁶¹⁰ Exhibit 107, Deposition of Paramedic Richard Arthur, July 14, 1994.

⁶¹¹ Exhibit 71, Report of FBI interview of Paramedic Richard Arthur, March 16, 1994: "[It] struck him as unusual... which make him doubt that it was a suicide: the straight attitude of the body..." Exhibit 109, Handwritten notes of FBI interview with Paramedic Richard Arthur, March 16, 1994: "Right side jaw line small caliber bullet hole (between ear and tip of chin) Didn't see any other bullet holes. Didn't look like suicide - straight laying out, gun bigger than hole"

⁶¹² Exhibit 110, Deposition of Paramedic George Gonzalez, July 20, 1994.

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include a jogger,⁶¹³ volunteers working on a park trail,⁶¹⁴ the driver of a white van or truck,⁶¹⁵ and the driver of another car.⁶¹⁶ Of particular interest is the account memorialized by the FBI in its interview of Firefighter Todd Hall.

"During a cursory search of the area surrounding Foster's body, Hall thought he heard someone else in the woods. He subsequently saw something red moving in the woods."⁶¹⁷

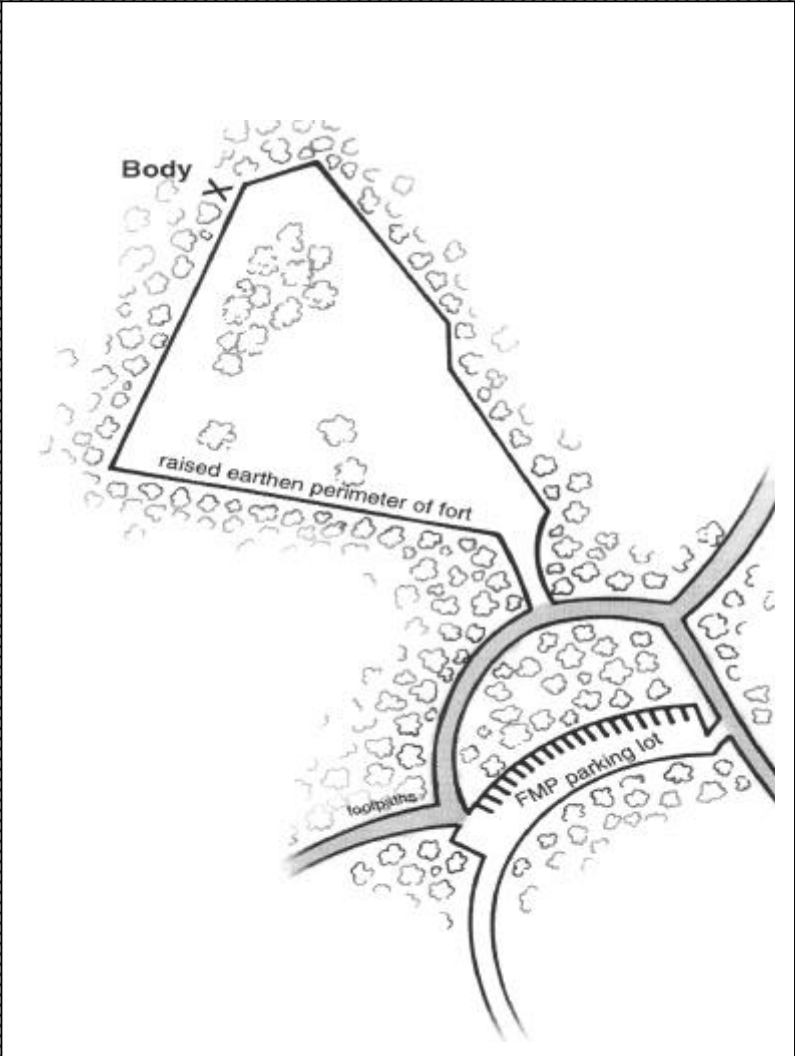
⁶¹³ Exhibit 151, Report of FBI interview of Male Civilian, April 5, 1994: "While in the park itself, the only person they observed was a jogger run by..."

⁶¹⁴ Exhibit 79, Deposition of Officer Kevin Fornshill, July 12, 1994: "I was told later that some persons on, I think it was, they were doing some repair work on a trail, they were on the opposite end of the park. There is a nature hiking trail that I imagine they were doing some work on... They were volunteers."

⁶¹⁵ Exhibit 150, Report of FBI interview with Female Civilian, April 7, 1994: "[T]he driver of this white van or truck was a white male, in his late 20's or early 30's who had light colored hair and was average height and weight."

⁶¹⁶ Exhibit 158, Report of FBI interview of civilian Jean Slade, April 11, 1994: She stated that another car, occupied by a white male, was also parked off to the right on the entrance ramp leading into the Fort Marcy parking lot... this individual proceeded up into the parking lot, turned around, and then drove off in the direction of the GW Parkway... dark hair, thick, well-groomed, summer-type shirt on, possibly plaid color, age 38-42, medium build... quite sure it was somewhere in the vicinity of 5:45-6:15 p.m... [A]t least two cars were in the parking lot and that they were both parked fairly close to one another... were situated in the beginning of the lot..."

⁶¹⁷ Exhibit 66, Report of FBI interview of Firefighter Todd Hall, March 18, 1994: During a cursory search of the area surrounding Foster's body, Hall thought he heard someone else in the woods. He subsequently saw something red moving in the woods... Hall noted that Ralph Pisani and one other EMS member thought they saw two males getting dressed in a wooded area adjacent to the site.

Body site	FORT MARCY PARK 6: 14:32-6:15 <u>See endnote 4.</u>						
Officer Kevin Fornshill	<p>At Officer Fornshill's direction, Hall and Gonzalez searched another area of the park. Fornshill, searching alone, found Mr. Foster's body. He called Hall and Gonzalez over to the body, who radioed the other team of searchers. Hall immediately noticed a gun in Mr. Foster's hand and told Fornshill. Fornshill radioed to the Park Police who were en route to the park that the death was an "apparent suicide." At the body, Hall "heard someone else in the woods [and] subsequently saw something red moving in the woods."</p>						
Firefighter Todd Hall							
Paramedic George Gonzalez							
							
<p>During their search of the Southeast area of the woods, the team located the couple. Gonzalez radioed the team of the body's discovery, and the team decided to head back toward the lot.</p>							
	<table border="1"> <tr> <td>Parking lot</td> </tr> <tr> <td>South of the lot</td> </tr> <tr> <td>Paramedic Richard Arthur</td> </tr> <tr> <td>Firefighter Ralph Pisani</td> </tr> <tr> <td>Firefighter Lt. James Iacone</td> </tr> <tr> <td>Firefighter Jennifer Wacha</td> </tr> </table>	Parking lot	South of the lot	Paramedic Richard Arthur	Firefighter Ralph Pisani	Firefighter Lt. James Iacone	Firefighter Jennifer Wacha
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10. Fingerprints

There were no fingerprints on the ammunition or gun, officially carried 700 feet in 95 degree weather, held in both hands and found clutched in Mr. Foster's right hand. The state of the official death weapon was consistent with its having been wiped clean of fingerprints. The Fiske Report suggested that there were no fingerprints on the gun (and two brass cartridges) fired by Mr. Foster by implying that heat destroyed them.

"Latent prints can be destroyed by exposure to certain elements, such as heat."⁶¹⁸

The OIC informs us that the Park Police, and later the FBI Lab during the Fiske probe, could find no prints on the exterior of the gun,⁶¹⁹ but found one print on the underside of the pistol grip. That print was not compared until December of 1995, when the FBI Lab compared it to those of Mr. Foster and Park Police who initially handled the gun, and found that it did not match.⁶²⁰ So, to this day, that print has still not been compared to those on file in the FBI database.

As to the absence of prints on the exterior of the weapon, the OIC notes that the *"determining factors in leaving latent prints are having a transferable substance,*

⁶¹⁸ Exhibit 12: Fiske Report, June 30, 1994.

⁶¹⁹ OIC, p. 40: "Identification Technician E.J. Smith of the Park Police examined the gun for latent fingerprints^{fn103} on July 23, 1993. The results were negative.^{fn104} The FBI Laboratory later examined the gun and similarly detected no latent prints on the exterior surface of the weapon."^{fn105}

⁶²⁰ OIC, p. 41, fn. 108: FBI Lab Report, 6/9/94, at 2. The FBI Laboratory, during its examinations, found one latent fingerprint on the underside of the pistol grip (that is, not on an exterior surface of the gun). FBI Lab Report, 7/19/95, at 1. This print has been compared to prints of Mr. Foster and of evidence technicians who initially handled the gun, but no identifications were effected. FBI Lab Report, 12/13/95, at 1; FBI Lab Report, 8/14/95, at 1. This print would have been left by someone who assembled or disassembled the gun, for example, to repair it or to put on new grips or for some other reason.

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i.e., sweat... a clean, smooth, flat surface... and the surface of the grip handle here was textured, not smooth."⁶²¹

While this is no doubt true, it does not take into account the official explanation that the gunshot residue on Mr. Foster's hands was caused by his wrapping his hands around the gun's cylinder, not the grip, and pulling the trigger with his thumb. All these surfaces are smooth, flat, and not textured.

Of all the items retrieved and fingerprinted during the course of the first brief probe, including the gun, the "miscellaneous papers" in the car at the park, the car itself, and the torn note, not one print belonged to Mr. Foster.

The absence of prints on the torn note is telling. On the billing records of Mrs. Clinton's Rose Law Firm work for a Whitewater related corporation, Castle Grande, found in the White House "book room" in 1997 (two years after they were subpoenaed), were the fingerprints of Mrs. Clinton and Mr. Foster, four or more years after Mr. Foster had handled them. The unsigned torn note, on which the proponents of the suicide theory have largely relied since its discovery six days after the death in the previously searched and thought to be empty briefcase (in 28 pieces with one piece missing), had only Bernard Nussbaum's palm print on it. Because the tearing process would have resulted in numerous thumb and forefinger prints on both sides of the paper, the absence of any other prints on the note mandates the conclusion that if Mr. Foster tore it up, he was wearing gloves or the pieces were wiped clean. This fact heightens the importance of the opinions of experts who opine that the note was forged (set forth in the footnotes above under *Background*).

⁶²¹ OIC, p. 41: The FBI Laboratory also noted that a lack of fingerprints is not extraordinary and that "[g]enerally, the determining factors in leaving latent prints are having a transferable substance, i.e., sweat, sebaceous oil or other substance on the fingers, and having a surface that is receptive to receiving the substance that forms the latent prints. A clean, smooth, flat surface is most receptive for transfer of any substance from the fingers,"^{fn108} and the surface of the grip handle here was textured, not smooth.

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.