

EXCERPTS

No.

IN THE
SUPREME COURT OF THE UNITED STATES

In Re: Patrick James Knowlton, *Petitioner*

PETITION FOR WRIT OF MANDAMUS

PETITIONER'S APPENDIX

Volume 2 of 2 volumes

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Preamble to Excerpts

The full version of this document was written by John Clarke, Hugh Turley, and Patrick Knowlton. This edition is 163 pages, selected from the full 530-page court filing.

The complete document was filed in the United States Supreme Court in 2001, after having been filed in three U.S. District Courts in the District of Columbia, the U.S. District Court for the Eastern District of Virginia, the U.S. Court of Appeals for the District of Columbia Circuit, and the D.C. Circuit's Special Division for the Purpose of Appointing Independent Counsels.

Contents

Preface.	1
Background.	23
Events surrounding the death.	31
Tuesday, July 20.	40
Fort Marcy Park.	50
Discovery of body, Chapter Summary.	51
Overview.	52
Notifications, Chapter Summary.	56
Photographs, Chapter Summary.	57
Entrance and exit wounds, Chapter Summary.	59
Autopsy.	63

Graphics, body tampering. 84

Gun, Chapter Summary. 87

Gunshot residue. 88

Paramedic drawing of weapon. 94

Ownership of gun, Exhibit to Starr Report. 95

Absence of car at the Fort Marcy Park. 96

Patrick Knowlton’s involvement. 98

Inferences to be drawn from the facts. 102

Investigative history. 124

Correspondence with Congress. 145

The media 155

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June 23, 1999

UNDER SEAL

The Honorable David B. Sentelle
The Honorable Richard D. Cudahy
The Honorable Peter T. Fay
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
Division 94-1 for the Purpose of
Appointing Independent Counsels

Re: *In re: Madison Guaranty
Savings & Loan Association
Report on the Death of Vincent W.
Foster, Jr., Patrick Knowlton's motions -*

- (1) To amend the Comments &
Factual Information included in the appendix to
the OIC's interim Foster Report, pursuant to the
Ethics in Government Act of 1978; and
- (2) Motion to unseal proposed
Comments & Factual Information

Dear Sirs:

In September 1997, the Court ordered the Office of Independent Counsel ("OIC") to include Mr. Knowlton's filing in the appendix to the OIC's interim Report on Mr. Foster's death. That Report, inclusive of its appendix, is available from any government printing office, document # 028-004-00095-8. Mr. Knowlton respectfully asks the

Court to order the OIC to substitute this work in the place of his earlier filing, so that it too will be available as document # 028-004-00095-8. Mr. Knowlton also respectfully asks the Court to immediately unseal this filing.

The objects of the relief Mr. Knowlton seeks¹ are the same as those of our Ethics in Government Act² -- to ensure that (1) justice is done, (2) justice appears to have been done, (3) those named in a Report are afforded a measure of fairness, (4) reports are full and complete, and (5) the Independent Counsel is accountable.

¹ See pp. 2-4 of Motions of Patrick Knowlton, filed herewith: (1) For Leave to Amend Comments and Factual Information included in the Appendix to the OIC's Interim Report on the Death of Vincent Foster... (2) Unseal Comments and Factual Information Proposed to be an Appendix to the OIC's Report & (3) Compel the OIC to produce his grand jury minutes:

Patrick Knowlton respectfully prays that the Court grant him leave to amend the Comments and Factual Information, attached as an appendix to the OIC's interim Report by Order entered September 26, 1997, and to substitute the enclosed Comments and Factual Information in its place... Because of the extraordinary public importance of the current debate on whether to reenact our Ethics in Government Act, and the need to promptly disseminate the information in the subject filing to the American people, movant respectfully requests that the Court consider the motion to unseal his filing on an expedited basis...

Summary of argument: ...The OIC's reliance on § 594 in filing its interim, as opposed to a "final," Report, was in error. The OIC's interim Report is unknown to the Act and this Court therefore need adjudicate movant's rights under the Act. *** Patrick Knowlton [also] respectfully moves the Court to unseal his proposed comments and factual information. The common law, the First Amendment to the Constitution, and the traditional practice of this Court support the relief requested. Personal privacy interest in non-disclosure, if any, is outweighed by the public interest in the administration of justice. The Act specifically authorizes this Court to unseal... *** A grand jury witness has a general right to the transcript of his own grand jury testimony when sought in connection with a judicial proceeding.

² The Ethics in Government Act of 1978, 28 U.S.C. §§ 591-599 (1994) [hereinafter also the "Ethics in Government Act," the "Independent Counsel Statute," or "the Act"].

Summary of Contents

Preface. 4

I. BACKGROUND. 30

II. AUTHORITIES ARRIVE AT THE SCENE. 75

III. OVERVIEW OF THE COMPARISON OF THE PUBLICLY AVAILABLE EVIDENCE TO THE OIC'S REPORT. 118

IV. EVIDENCE OF KNOWLEDGE OF THE DEATH BEFORE THE OFFICIAL TIME OF NOTIFICATION. 122

V. EVIDENCE THAT THE OIC CONCEALED THE DISAPPEARANCE OF PHOTOGRAPHS. 130

VI. EVIDENCE THAT THE OIC COVERED UP THE ABSENCE OF THE OFFICIAL MOUTH ENTRANCE WOUND & HEAD EXIT WOUND, AND THE EXISTENCE OF A NECK WOUND. 155

VII. EVIDENCE THAT THE OIC COVERED UP THAT MR. FOSTER DID NOT FIRE OR OWN THE GUN FOUND AT THE PARK. . 251

VIII. EVIDENCE CONTRADICTING THE OFFICIAL CLAIM THAT MR. FOSTER DROVE TO THE PARK. 292

IX. OTHER ANOMALIES. 371

X. INFERENCES TO BE DRAWN FROM THE FACTS. 386

XI. STATE OF MIND. 408

XII. INVESTIGATIVE HISTORY. 430

XIII. CONCLUSION. 451

Endnotes. 472

Preface

Preface

If the Court grants Patrick Knowlton's motion, this document will forever be available from any government printing office. This filing is for the public. It presents most of the available evidence of cover-up. We believe that it proves, beyond doubt, the existence of a conspiracy, a cover-up.

If a cover-up exists, Mr. Starr's Office of Independent Counsel is infected with the very corruption it is designed to fight. That is important. But more importantly, in light of the scrutiny we are told our government has given the matter, if a cover-up has survived now for almost six years, then the matter of the existence of the conspiracy raises larger issues. Two of the three branches of our government, the executive and the legislature, as well as the press, did not function as intended. In the pages that follow, we are examining whether our Constitutional system protects us from government corruption, as the experiment of our founding fathers envisioned. These questions about our democracy are not merely academic.

The records filed in two District of Columbia federal courts tell how Patrick Knowlton became embroiled in this case. One is his 20-page submission to the United States Court of Appeals, Special Division for the Purpose of Appointing Independent Counsels, filed on his behalf in accordance with the Independent Counsel Statute. The Court ordered Mr. Starr's OIC, over its objection, to include those 20 pages in its Appendix to Report on the Death of Vincent Foster, Jr., a nine-page letter and eleven pages of exhibits. On October 10, 1997, the OIC's Report on Mr. Foster's death, inclusive of its Appendix, was released to the public. Another Court in which Patrick Knowlton is proceeding is the United States District Court for the District of Columbia, where his civil rights lawsuit is filed.

Excerpts from these two Court filings appear below.

Appendix to the OIC's Report on the Death of Vincent Foster, Jr., September 23, 1997:

Preface

Facts. While heading home in heavy traffic on the George Washington Memorial Parkway, and facing over a two-hour commute, Patrick Knowlton pulled into Fort Marcy Park at 4:30 p.m. on July 20th, 1993, to relieve himself. Patrick parked close to the main footpath entrance into the park, between the only two cars in the small parking lot, which were parked just four spaces apart.

To Patrick's left was parked an unoccupied mid-1980s rust-brown four-door Honda sedan with Arkansas tags (closest to the footpath entrance), and on his right was a late model metallic blue-gray sedan, backed into its parking space. A man was seated in the driver's seat of the blue-gray sedan. Immediately after Patrick parked, the man lowered the passenger side electric window and stared at him, menacingly. This unnerved Patrick as he exited his car.

As he started from his car toward the footpath, Patrick heard the blue-gray sedan's door open. Apprehensive, Patrick walked to the sign bordering the footpath entrance to the park and feigned to read its historical information while nonchalantly glancing to his right to see if the man was approaching. He saw the man leaning on the roof of the driver's side of his blue-gray sedan, watching him intently. Patrick then cautiously proceeded 75 feet down the footpath's left fork to the first large tree, in the opposite direction from which Mr. Foster's body was later recovered.

As he relieved himself, Patrick heard the man close his car door. Because the foliage was dense, he couldn't see the parking lot and hoped the man wasn't approaching. As Patrick walked back to the parking lot with a heightened sense of awareness, he scanned the lot but did not see the man. Patrick surmised that the man had either gotten back in his car or perhaps could even be

Preface

crouching between the brown Honda and Patrick's car preparing to attack him.

In order to maintain his distance from the space between the two cars until he learned the man's whereabouts, Patrick walked directly toward the driver's side door of the brown Honda, and then around the back of it. As Patrick reached the driver's side door of the brown Honda, he looked through the window. He also looked into the back seat as he walked the length of the car. He saw a dark colored suit jacket draped over the driver's seat, a briefcase on the front passenger's seat, and two bottles of wine cooler on the back seat. As he reached the back of the Honda, Patrick was relieved to see that the man had returned to his own vehicle. The man was still staring fixedly at him.

Of the five things Patrick witnessed at the park ((1) the man and his car, (2) the suit jacket, (3) the briefcase, (4) the wine cooler, and (5) the mid-1980s Arkansas brown Honda), the Honda itself is the most relevant. It was not Mr. Foster's car. When Mr. Foster's body was discovered approximately 70 minutes after Patrick had left the park, Mr. Foster had been dead for well over 70 minutes. Mr. Foster therefore could not have driven to the park in his Honda, as claimed in the government Reports on the death.

The following evening, Patrick saw on the news for the first time that Vincent Foster had been found dead at Fort Marcy Park, so he telephoned the U.S. Park Police and reported what he had seen. Nine months later, FBI Special Agent Larry Monroe... wrote in his reports of those interviews that Patrick "identified this particular vehicle [Honda] as a 1988-1990...", and that Patrick "reiterated his description of this Honda as a 1988-1990." This information was false and known to be false.^{fn2}

Preface

Eighteen months later, in October of 1995, Patrick was provided a copy of his then publicly-available FBI interview reports by a reporter for a London newspaper. He realized for the first time that Monroe had falsified his account of the car and other facts he had recounted during his FBI interviews. His true account, along with the contradictory information from his FBI interview reports, was reported in the London newspaper on Sunday, October 22, 1995.

Two days later, on Tuesday, October 24, the paper reached American newsstands. That day, Mr. Starr's office prepared a subpoena summoning Patrick to testify before the Whitewater grand jury in this courthouse on November 1, 1995. Two days after that, Thursday, October 26, FBI agent Russell Bransford served the secret grand jury subpoena.^{fn3}

fn. 2: Monroe tried for hours to get Patrick to admit that the Foster's 1989 silver-gray Honda "could have been" the car Patrick saw. Patrick steadfastly responded, "No," repeating the description he had provided to the Park Police by telephone. Monroe falsified his interview report, writing that Patrick had "identified" the Honda as a "1988-1990," despite the fact that during his second FBI interview, Patrick had picked out the same color he had seen on the mid-1980s Honda from the "browns" section of the car color panels in the FBI laboratory, and that color corresponded to one available only on 1983 and 1984 Hondas.

fn. 3: Agent Bransford had been detailed to regulatory Independent Counsel Fiske's investigation, where he worked with Agent Monroe. Bransford told Patrick he had been "kept on under Starr."

Preface

Beginning that same day he was subpoenaed, and continuing into the following day, Patrick was harassed... Experts tell us that the technique is known to federal intelligence and investigative agencies, and that its objects were twofold: (i) to intimidate and warn Patrick in connection with his grand jury testimony; and failing that, (ii) to destabilize him and discredit his testimony before the grand jury.

It worked.

* * *

[P]rior to Mr. Starr's appointment to head the statutory OIC in August of 1994, the only substantive investigations into the case, with the sole exception of the U.S. Park Police investigation (conducted with FBI participation), were conducted by the FBI.^{fn8} The publicly-available federal government record upon which the Fiske Report is based is replete with evidence that the FBI concealed the true facts surrounding Mr. Foster's death.^{fn9}

* * *

fn. 8: There have been no other official investigations. The 1994 Senate Banking Committee was precluded by the limited scope of Resolution 229 from independently exploring the issue of how or where Mr. Foster died ("whether improper conduct occurred regarding... the Park Service Police investigation into the death..."). [Ranking Republican, Committee on Government Operations, U.S. House of Representatives, William F.] Clinger did not investigate and Senator D'Amato's Committee did not explore these issues.

fn. 9: Much evidence of obstruction of justice by the FBI is documented in Patrick's lawsuit in this District Court (No. 96-2467) for *inter alia*, violation of 42 U.S.C. § 1985(2), "...*Obstructing justice; intimidating... witness...*"

Preface

The fundamental purposes of our Ethics in Government Act are (1) to ensure that justice has been done and (2) to preserve and promote public confidence in the integrity of the federal government by maintaining the appearance that justice has been done. In light of (1) the FBI's statutory mandate to exercise primary jurisdiction in July of 1993 in the event of foul play, (2) two prior FBI findings of no criminal activity, and (3) evidence of a cover-up by the FBI already in the public domain, the OIC's use of the FBI in this matter undermines both purposes of the Act. No OIC can fulfill its mandate to preserve and protect the appearance of justice having been done when its investigation employs the very agency it is designed to be independent from, the Justice Department.^{fn11}

Upon review of those excerpts of the Report provided by the OIC, it is manifest that the Report omits the information Patrick provided which refutes the FBI's repeated official conclusion of suicide in the park...

* * *

fn. 11: Under the Act, the OIC's use of the FBI is free, tempting the OIC to create a microcosm of the DOJ. (See Act of Dec. 15th 1987, Pub. L. No. 100-191, 1987 U.S.C.C.A.N. (101 Stat. 1293) p. 2172: "Congress intended the Justice Department to provide independent counsels with the same assistance it provides to its other high-priority, federal criminal cases... federal agencies are instructed to discontinue... requiring reimbursement agreements..."

fn. 12: See Exhibit 4. A USPP report notes that the autopsy doctor estimated that Mr. Foster died "2-3 hours" after having eaten a "large meal" "which might have been meat and potatoes." Several people reported that Mr. Foster had finished his lunch of a cheeseburger and French fries by 1:00 p.m., therefore putting the time of death between 3:00 and 4:00 p.m. Also, the paramedic in his Incident Report estimates that based upon the "pooling of blood in the extremities," Mr. Foster had been dead "2-4 hrs" at 6:10 p.m...

Preface

Moreover, the Report's purported reliance on grand jury testimony is an attempt to give the Report more credibility. Indeed, the catalyst for Patrick's grand jury testimony was the appearance in U.S. newsstands of the October 22nd [1995] issue of the *London Sunday Telegraph*, in which Ambrose Evans-Pritchard described Patrick's reaction when he was shown the FBI report of his interview with two FBI agents detailed to Mr. Fiske's probe. It was the first time Patrick had seen the report of the interview, which had been conducted eighteen months earlier. Evans-Pritchard wrote that Patrick "was stunned." Referring to the FBI's assertion that Patrick stated he "would be unable to recognize the man" he had seen at the park, Patrick is quoted as saying "That's an outright lie."

Evans-Pritchard's article also states:

"They showed him a photograph of [Foster's] Honda... 'They went over it about 20 times, telling me that this was Foster's car,' said Knowlton. 'But I was quite adamant about it. I saw what I saw, and I wasn't going to change my story'... Starr's investigators have never talked to Knowlton. The federal grand jury has never summoned him to give sworn testimony."

* * *

On October 24, the same day that this newspaper reached U.S. newsstands, the OIC prepared a subpoena summoning Patrick to testify before the Whitewater grand jury. The secret grand jury subpoena was served two days later by an FBI agent who was formerly detailed to Mr. Fiske's probe, whereupon Patrick was harassed and intimidated... The Report omits all of this, even though Patrick submitted a report detailing the harassment to the OIC in March of 1996, which included reports of a polygraph examination, a

Preface

psychiatric examination, witnesses' affidavits, photographs of two members of the harassment team and the names and addresses of two others.

Conclusion. Because Patrick did not heed the warning regarding his grand jury testimony and continued to tell the truth, including his account of the *bizarre* harassment he suffered, his testimony was discredited. Patrick was harassed in an effort to make him look unbalanced or dishonest. Since that time, he has been defamed by numerous individuals, most of whom are journalists. He has been attacked as a delusional conspiracy theorist, a homosexual, and as an outright liar. Patrick has been fighting to reestablish his credibility for the past two years. Patrick did nothing to deserve the outrageous treatment he received at the hands of the OIC and its FBI agents. He did nothing to deserve being yanked into this FBI debacle, having his life turned upside down, and having to endure this fight for his reputation. Patrick's only "crime" was reporting to the authorities what he had seen at Fort Marcy Park, consistent with his understanding of his duties as a good citizen.

Patrick respectfully asks that the Division of the Court append this letter to the Independent Counsel's Report on the Death of Vincent Foster, Jr. to afford him a measure of fairness. A denial of this relief would augment the appearance of justice having not been done and would further frustrate legislative intent. Patrick should not have to go through the rest of his life labeled as a liar or some kind of nut. He has no remedy at law for injury to his reputation causally related to the subject investigations. Patrick Knowlton merely seeks to establish that he is telling the truth and that he is mentally stable.

Preface

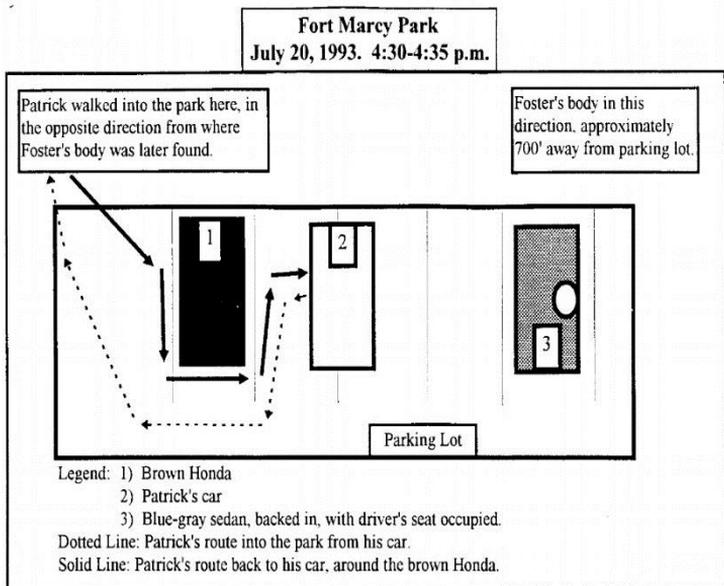


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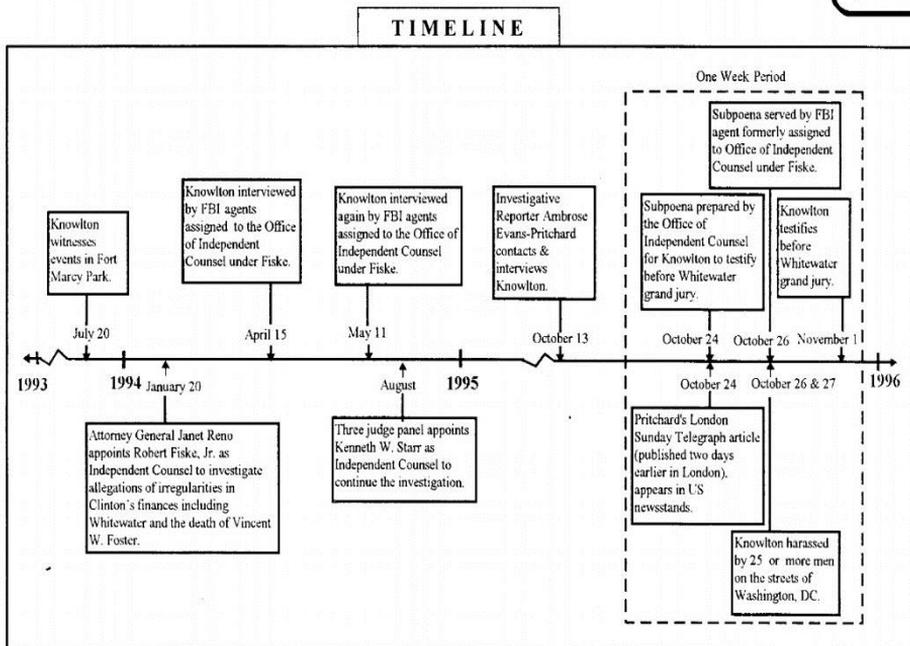


Exhibit 1 of Appendix to the OIC's Report on the Death of Vincent Foster, Jr., submitted September 23, 1997, released to the public on October 10, 1997.

Preface

USPP REPORT. INTERVIEW BY USPP & FBI OF ASSISTANT IN WHITE HOUSE COUNSEL'S OFFICE: MR. FOSTER ATE LUNCH OF "CHEESEBURGER" AND "FRENCH FRIES."

TITLE/AREA United States Park Police		MO 07	DAY 2	YR 09	HR 3	MIN 19	SEC 54	TIME -	DATE 01	TIME 510	
NATURE OF INCIDENT Death Investigation		RECLASSIFICATION OF INCIDENT									

The first conversation she had with him was about lunch around 1200-1230 hours. He said he would eat at his desk. He ordered a medium rare cheeseburger, french fries and coke. She and Linda Tripp went to the cafeteria and ordered his lunch. She

FBI INTERVIEW REPORT. EXECUTIVE ASSISTANT IN WHITE HOUSE COUNSEL'S OFFICE: MR. FOSTER LEFT OFFICE SHORTLY AFTER 1:00 PM AFTER HE ATE LUNCH.

Continuation of FD-302 of Linda A. Tripp, On 4/12/94, Page 4

from work. When he left the office at shortly after 1:00PM he did not have anything with him. TRIPP did not know where he was going and it was not appropriate for her to ask him. He did not have any appointments noted on his office calendars or that anybody knew about.

USPP REPORT. DOCTOR WHO PERFORMED AUTOPSY SAID EATEN "MEAT AND POTATOES" "2-3 HOURS PRIOR TO DEATH."

TITLE/AREA GNP Ft. Nacy		MO 07	DAY 2	YR 09	HR 3	MIN 19	SEC 54	TIME -	DATE 01	TIME 510	
NATURE OF INCIDENT		RECLASSIFICATION OF INCIDENT									

Dr. Byer stated that it appeared that the victim had eaten a "large" meal which he believed to have occurred within 2-3 hours prior to death. He was unable to state positively what type of food was consumed but stated the it might have been meat and potatoes.

PARAMEDIC'S INCIDENT REPORT. AT 6:10 PM "HAD BEEN DEAD APPROX 2-4 HRS."

This is certified a true copy of the actual field incident report in possession of the Fairfax County Fire and Rescue Department
Signed Gemma Diemontico
Date 7-19-94

EXHIBIT
4
Page 1 of 2 pages

NARRATIVE REPORT	NARRATIVE REPORT
INCIDENT # R32011315 UNIT M01 SUPP 01 SED 3 SITF 701 DATE 07/20/93	INCIDENT # R32011315 UNIT M01 SUPP02 SITF 801 07/20/93
HAD SET IN. POOLING OF BLOOD IN THE EXTREMITIES. PT HAD BEEN DEAD APPROX. 2-4 HRS. PT HAD A WEAPON IN HIS-RIGHTHAND	HAD SET IN. POOLING OF BLOOD IN THE EXTREMITIES. PT HAD BEEN DEAD APPROX 2-4 HRS. PT HAD A WEAPON IN HIS-RIGHTHAND

Exhibit 4 of Appendix to the OIC's Report on the Death of Vincent Foster, Jr., submitted September 23, 1997, released to the public on October 10, 1997

FBI REPORTS OF INTERVIEWS WITH PATRICK AND TWO OTHER CIVILIAN PARK WITNESSES

PATRICK ARRIVED 4:30 PM. CAR "BROWN... HONDA WITH ARKANSAS PLATE"

parking area, he immediately noticed an unoccupied vehicle parked front end in facing the park in one of the first parking slots on the left-hand side. He identified this particular vehicle as a 1988-1990 brown or rusty brown in color Honda with Arkansas plates. He stated that he could not remember whether this vehicle was a two door or four door sedan and outside of the

MALE SAYS HE AND FEMALE ARRIVED AROUND 5:00 P.M. CAR "BROWNISH."

They arrived at Fort Marcy Park at approximately 5:00 p.m. As they drove into the parking lot, he observed a vehicle, possibly a small station wagon or 'hatchback' model, brownish in color, parked to his left. The vehicle was parked close to the path leading up to Fort Marcy, with the front of the car pulled

FEMALE SAYS THEY ARRIVED BETWEEN 5:15 & 5:30 PM. CAR "MID-1980s."

Marcy Park in her white Nissan , arriving at Fort Marcy Park sometime between 5:15 and 5:30 p.m. To the best of her recollection, she maintained that upon entering the parking lot at Fort Marcy Park, she noted that the only vehicle in the parking area was a relatively old (mid-1980's) Honda, possibly a Honda Accord, either tan or dark in color, parked close to the entry of the parking lot, adjacent to a path leading to the Northern section of the park. believed that this particular Honda was parked with the front of the vehicle facing the park area and to the best of her recollection, believes a

SWORN TESTIMONY OF PATRICK KNOWLTON (ARRIVED FMP 4:30 PM)

REGARDING: VINCENT FOSTER. SWORN STATEMENT OF PATRICK KNOWLTON
PRESENT: CONGRESSMAN DAN BURTON KEVIN BINGER JOHN CLARKE

14 | THERE WAS TWO VEHICLES IN THE PARKING LOT -- ONE WAS A
15 | BROWN, RUST-BROWN COLORED HONDA WITH ARKANSAS LICENSE
16 | PLATES. IT WAS AN OLDER VEHICLE.

19 | SUGGESTED TO ME THAT THAT WAS THE AGE OF IT, AND, WHEN HE
20 | SHOWED ME THE PICTURES OF A CAR THAT WAS AN '88 OR A '90, I
21 | SAID, NO. IT IS, OBVIOUSLY, AN OLDER CAR. THE CAR THAT
22 | YOU ARE SHOWING ME THE PICTURE OF IS TOO NEW.

EXHIBIT

4

Page 2 of 2 pages

Preface

On October 25, 1996, a year before the Court ordered that the OIC's Report on Mr. Foster's death be released to the public, Patrick Knowlton's civil rights lawsuit was filed in the US District Court for the District of Columbia, Case No. 96-2467. In it, he alleges violations of 42 U.S.C. § 1985(2), *Obstructing justice; intimidating... witness*. On October 21, 1998, he filed a motion to file a Second Amended Complaint. Excerpts of that amended lawsuit follow.

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

SECOND AMENDED COMPLAINT (10/98)
(Conspiracy to interfere with Civil Rights
in violation of 42 U.S.C. § 1985(2), Obstructing justice;
Intentional Infliction of Emotional Distress;
Assault; Battery; Civil Conspiracy)

* * *

Summary of case

2. This case arises from an overall conspiracy to obstruct justice in connection with federal investigations into the death of deputy White House counsel Vincent W. Foster.

3. Upon learning that Mr. Foster's body was found in Fort Marcy Park, Virginia, Plaintiff reported to authorities what he had seen in the park approximately 70 minutes before the discovery of Mr. Foster's body.

4. In April and May, 1994, Defendant Monroe, then an FBI agent detailed to the Office of regulatory Independent Counsel Robert Fiske, interviewed Plaintiff... Monroe falsified Plaintiff's account and misreported that Plaintiff identified the car he saw as a "1988 to 1990" year-model, which coincided with Mr. Foster's 1989 car. Because Mr. Foster was dead by the

Preface

its participants, is relevant to the prosecution of Patrick Knowlton's civil rights lawsuit.

The first goal of this filing is to prove the existence of a conspiracy, as alleged in the lawsuit, as well as the named defendants' participation in it.

We will see the participation in the conspiracy of Park Police Sergeant Robert Edwards while at Fort Marcy Park on July 20, 1993. We will see the role, just 15 hours later, of Deputy Chief Medical Examiner James C. Beyer, Jr., as well as the unknown "John Doe Pathologist" who assisted him. We will review the evidence of the knowledge of the cover-up during the first 17-day FBI/Park Police investigation by the Agent-in-Charge of the FBI's Washington Metropolitan Field Office, Robert M. Bryant, who now serves as the FBI's Deputy Director. We will review the evidence against FBI Agent Lawrence Monroe, the unknown "John Doe FBI Laboratory Technician," and Scott Jeffrey Bickett, all of whom participated in the cover-up in the Spring of 1994, when the FBI conducted its second investigation, under the auspices of the 5-month Fiske probe. And we will see that FBI agent Russell T. Bransford participated in the conspiracy in October of 1995, during Mr. Starr's probe. Finally, we will see how Ayman & Abdel Alouri and others harassed Patrick Knowlton on the eve of his Whitewater grand jury appearance, also in October of 1995, two-and-a-half years after the death.

If you have ever served on a jury, you probably recall being instructed to keep an open mind, and not to decide the case until you have heard all the evidence. Most of the available evidence is presented in this filing. Like a trial, reviewing the evidence can be work, tedious at times. But most of the chapters have factual summaries at the beginning, so you have the ability to read only the summary should you not care to read the body of the chapter. Because the same evidence is sometimes presented on more than one issue, you may occasionally see testimony or excerpts of FBI interview reports that you have already seen in another part of the paper.

Preface

Chapter I of this filing, *Background*, repeats what many of us have heard about the case, sets forth much of the record of the events preceding the death, relates the official version of the discovery of the body, and points out some anomalies in the official story of the body's discovery. Chapter II, *Authorities Arrive at the Scene*, sets forth the movements of the Park Police and Fire & Rescue workers ("Firefighters") at the park, and provides a synopsis of much of the evidence that we will review later.

In Chapters III through X, we compare the publicly available evidence in the case with the OIC's Report on the death. After Chapter III, *Overview of the Comparison of the Publicly Available Evidence to the OIC's Report*, we begin our review in earnest, a 250-page comparison of every substantive point in the OIC's Report to the available evidence in the case. The discovery process in Patrick's lawsuit has not yet begun, so we do not yet have subpoena power. We obtained all but a tiny fraction of the evidence we will review from the public record. It was generated by the federal government.

Beginning in chronological order, Chapter IV, *Evidence of Knowledge of the death before the Official Time of Notification*, looks at the OIC's claim that no authorities other than the Park Police knew of the death before 8:30 p.m. Next, to underscore the importance of the testimonial evidence of park witnesses recounted in subsequent chapters, Chapter V, *Evidence that the OIC concealed that Photographs Vanished*, reviews the OIC's claim that no Polaroid photographs of the body vanished, and that all of the 35-millimeter shots were "underexposed."

The next Chapter, VI, *Evidence that the OIC Covered up the Absence of the Official mouth Entrance Wound & head Exit Wound, and the Existence of a Neck Wound*, is the longest chapter, almost 100 pages. It compares all the records of all the witnesses who saw the body at the park and morgue to the OIC's claims and conclusions regarding the issues of the wounds and the blood. This chapter also reviews the record of the autopsy.

Preface

In the next three Chapters, we review the evidence regarding all the remaining issues in the case save one -- the claim of depression. These three Chapters are: VII, *Evidence that the OIC covered up that Mr. Foster did not own or fire the gun found at the park*; VIII, *Evidence contradicting the official claim that Mr. Foster drove to the park*; and IX, *Other Anomalies*.

The next Chapter, X, *Inferences to be drawn from the Facts*, takes the step of discussing the evidence in the case, as well as its interrelations -- how one anomaly in the case is related to others. We suggest that you ponder in Chapter X the question posed, whether there is in fact a cover-up of the facts of the death.

The three chapters which comprise the balance of this Court filing are XI, *State of Mind*; XII, *Investigative History*; and lastly, *Conclusion*. In the *State of Mind* Chapter, we do not attempt to prove that Mr. Foster was not depressed because we conclude that it is too problematic and, in any event, irrelevant. We do offer some compelling evidence that the OIC's expert psychologist's conclusion is unreliable. The *Investigative History* chapter explains that the FBI is almost the only entity that has investigated the case, three times in all.

The Court released the OIC's Report on the Death of Vincent Foster, Jr. 20 months ago, having been submitted at the conclusion of its three-year investigation. This filing took three people 17 months to research and write: Patrick Knowlton, Hugh Turley, and the undersigned, all of whom are self-employed. Patrick is 44 years old. He has lived in Washington, DC, since he moved here in 1990 from his native Syracuse, New York. Having worked in the construction industry for seventeen years, he was a master carpenter and builder. Today, he is a part-time licensed tour director in Washington, DC, Philadelphia, and New York, and is a private investigator. Patrick is heterosexual, has never been charged with a crime, is a registered Democrat, and has no political agenda. Hugh Turley is a Washington area businessman who lives in suburban Maryland. Hugh took an interest in the case soon after the death.

Preface

are deciding if the system failed in the Foster case. If it did, you have a right to know.

The official version of the death is that on July 20, 1993, around 1:00 p.m., Mr. Foster left the White House alone in his own car, and sometime later drove into the Fort Marcy Park parking lot, and walked 700 feet up into the park. He is said to have then taken his own .38 caliber revolver, loaded with two high velocity cartridges, placed its barrel against his soft palate, and pulled the trigger, leaving an exit wound in the top of the back of his head about the size of a half-dollar.

It is time to review the evidence. You have never read or heard it before.

Table of Contents

Summary of Contents.	3
Preface.	4
I. BACKGROUND.	30
1. Introduction.	30
2. The record of events surrounding the death.	38
a. Before July 20, 1993.	38
b. Tuesday, July 20.	47
c. No record of Mr. Foster's having left the White House complex.	53
3. Fort Marcy Park, discovery of body.	57
a. Fort Marcy Park.	57
b. Official version of discovery of body.	62
Summary.	62
II. AUTHORITIES ARRIVE AT THE SCENE.	75
III. OVERVIEW OF THE COMPARISON OF THE PUBLICLY AVAILABLE EVIDENCE TO THE OIC'S REPORT.	118

Preface

- IV. EVIDENCE OF KNOWLEDGE OF THE DEATH BEFORE THE OFFICIAL TIME OF NOTIFICATION. 122
 - Summary. 122
 - 1. FBI's Violent Crime Squad. 122
 - 2. Fire & Rescue workers and Park Police. 126
 - 3. William Kennedy and Craig Livingstone. 129
 - 4. White House telephone records. 129

- V. EVIDENCE THAT THE OIC CONCEALED THE DISAPPEARANCE OF PHOTOGRAPHS. 130
 - Summary. 130
 - 1. Sergeant Edwards absconded with Officer Ferstl's Polaroids. 133
 - 2. Rolla's two Polaroids of the back of the head vanished. 142
 - 3. OIC concealed that the roll of 35-mm film produced usable photographs. 148

- VI. EVIDENCE THAT THE OIC COVERED UP THE ABSENCE OF THE OFFICIAL MOUTH ENTRANCE WOUND & HEAD EXIT WOUND, AND THE EXISTENCE OF A NECK WOUND. 155
 - Summary. 155
 - 1. Witness accounts of a bullet wound in Mr. Foster's neck and the absence of the official mouth entrance wound and skull exit wounds. 159
 - a. Reports of Medical Examiner Haut and Paramedic Richard Arthur of the existence of a neck wound. 159
 - b. No record of any of 26 persons who viewed the body before the autopsy having seen the official entrance and exit wounds. 165
 - 2. The autopsy. 182
 - a. Rescheduled. 182
 - b. Failure of investigators to attend. 186
 - c. Entrance wound evidence removed. 187
 - d. Refusal to identify autopsy assistant. 189
 - e. Caliber of weapon unknown. 190

f.	Lab Report may contradict the existence of the official entrance wound.	190
g.	FBI apprised of "preliminary results" of "no exit wound".	193
h.	X-rays vanished.	194
i.	No official estimate of time of death.	199
j.	Conflicting evidence of bullet trajectory.	201
3.	Bloodstains consistent with the neck wound.	203
4.	Official excuse for blood on Mr. Foster's right side is that it drained from his mouth when an "early observer" moved the head to check for a pulse, then repositioned it -- but Edwards did it to obscure or camouflage the blood evidence of the existence of the neck wound.	211
a.	No reports of "early observers" having moved the head or seen it being moved and resuscitation was not attempted.	220
b.	No "early observer" could have caused right side bloodstains because they all saw these stains as they arrived.	224
c.	The blood was dry until after Edwards had been alone at the body site.	226
d.	Only witnesses who saw the blood transfer contact stain arrived at the site after Sergeant Edwards had been alone with the body.	233
5.	Blood quantity insufficient.	235

VII.	EVIDENCE THAT THE OIC COVERED UP THAT MR. FOSTER DID NOT FIRE OR OWN THE GUN FOUND AT THE PARK. .	251
	Summary.	251
1.	Impossibility of gunshot residue patterns on hands having been caused by self-inflicted wound.	252
2.	Gunpowder.	259
a.	Type found not used by Remington.	260
b.	Present on broken eyeglasses found 17 feet uprange.	261
c.	Reportedly found in soil over a year later.	262
3.	The guns at the park.	264
4.	Ownership of gun and ammunition.	278
a.	Gun.	278

Preface

	b.	Ammunition.	287
	c.	Oven mitt.	288
VIII.		EVIDENCE CONTRADICTING THE OFFICIAL CLAIM THAT MR. FOSTER DROVE TO THE PARK.	292
		Summary.	292
	1.	The other Arkansas Honda at the Park.	293
		a. Mr. Foster was dead before 4:20 p.m.	294
		b. Patrick Knowlton and the absence of Mr. Foster's car at the park at 4:30.	294
		c. The civilian couple at the park.	349
		d. Other evidence that Mr. Foster's car may not have been at the park.	331
	2.	Car keys not at the park.	332
IX.		OTHER ANOMALIES.	371
	1.	Analysis of blood on eyeglasses and gun.	371
	2.	Missing bullet.	372
	3.	Reported lack of dragging-type soil patterns.	374
	4.	Analysis of dirt on shoes.	375
	5.	Hair analysis.	377
	6.	Fiber analysis.	378
	7.	Bone chip.	380
	8.	Unusual position of body.	381
	9.	Other unidentified persons present in the park.	382
	10.	Fingerprints.	383
	11.	Determination of suicide made before police investigators viewed the body.	385
X.		INFERENCES TO BE DRAWN FROM THE FACTS.	386
XI.		STATE OF MIND.	408
	1.	The OIC's psychological autopsy is unreliable.	408
	2.	The verdict of depression.	412
XII.		INVESTIGATIVE HISTORY.	430
	1.	The FBI and the first 16-day probe.	430

Background

2.	Publicity of the removal of Whitewater documents from Mr. Foster's office on the eve of the Fiske probe.	441
3.	Reports generated by Fiske's FBI probe.	444
4.	The FBI and the OIC.	446
5.	Congress never conducted a probe of the death.	447
XIII.	CONCLUSION.	451
	Endnotes.	472

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,⁶

⁶ 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

Background

a few did,⁷ and a few changed their minds.⁸

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: "...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..."

⁷ 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]

⁸ 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 24, 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

Background

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

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

damn thing to it. That's a bunch of crap," Mr. Anthony said yesterday, slamming down the telephone at his El Dorado, Arkansas home.

⁹ 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.

¹⁰ 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."

¹¹ 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."

Background

taking medication for depression, that a note was found,¹² and that he was suffering from depression.¹³

¹² OIC, p. 106-107: At some point in the last week of his life, Mr. Foster wrote a note ^{fn337} that he had "made mistakes from ignorance, inexperience and overwork" and that he "was not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport."^{fn338}

¹³ 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 24, 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, 1999; 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*,

Background

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,¹⁴ but did not appear to have feared Travelgate.¹⁵

St. Paul Pioneer Press, October 11, 1997; LA Times Wire 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.

¹⁴ 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."

¹⁵ 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 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."

Background

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

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.^{fm336}

¹⁶ Exhibit 16, Report of FBI interview of Mrs. Lisa Foster, May 9, 1994: "The other [redaction] occasions when Foster sounded choked up and tense were when the Branch Davidian complex near Waco, Texas burned..."

¹⁷ 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..."

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

¹⁹ 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 symptoms." Compare Exhibit 12, Fiske Report, June 30, 1994: "[I]t was obvious to many that he had lost weight."

²⁰ 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

Background

more than it had been six months earlier, in December of 1992.²¹ The claim that he had just begun medication for depression is questionable.²²

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

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]."

²¹ 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" 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."

²² 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.^{fn174}" OIC, p. 60, fn. 175: "The Lab 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."

²³ *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 Rossetti), 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. 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

Events surrounding the death

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.

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 the son's 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."²⁴

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.

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.

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

Events surrounding the death

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."²⁵

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."²⁶

²⁵ Exhibit 18, Report of FBI interview with Susan Thomases, June 6, 1994. 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.

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

Events surrounding the death

Before leaving his office for home shortly before 4:00 on Friday, Mr. Foster checked out a long-range beeper²⁷ 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

"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."²⁸

The Weekend. The Fiske Report describes as "coincidence" that Mr. and Mrs. Foster were spending the weekend at 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.²⁹ (Mr. and Mrs. Cardozo in separate interviews reportedly told the *Washington Post* that the weekend had been planned for more than a week.³⁰) Mr. Cardozo had been Deputy White House Counsel in the Carter Administration,³¹ 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.³²

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

²⁸ Exhibit 16, Report of FBI interview with Lisa Foster, May 9, 1994.

²⁹ 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 Fosters."

³⁰ 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."

³¹ Exhibit 1, Report of FBI interviews of Associate Attorney General Webster Hubbell, April 13 & 15, 1994.

³² Exhibit 1, Report of FBI interview of Webster Hubbell, April 13 & 15, 1994.

Events surrounding the death

Evidence shows that Mr. Hubbell knew where the Fosters were staying from a telephone conversation he had with Mr. Foster on Friday, July 16, 1993.³³ The Fosters and the Hubbells spent Saturday and Sunday at the Landow Estate.³⁴ 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.³⁵

³³ 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.

³⁴ Exhibit 1, Report of FBI interviews of Webster Hubbell, April 13 & 15, 1994.

³⁵ 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 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.

Events surrounding the death

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.³⁶

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..."³⁷ 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 more often. They [also] confirmed that Lyons was coming to Washington, D.C. the following Wednesday, July 21, 1993."³⁸

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."³⁹ 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."⁴⁰

One of Mr. Foster's sisters, Sheila Anthony, called to ask how the weekend had gone.⁴¹ Mr. Foster told her that he had a great

³⁶ Compare: OIC, p. 100: "Dr. Berman said that Mr. Foster's "last 96 hours show clear signs of characteristic vulnerability."

³⁷ Exhibit 16, Report of FBI interview with Mrs. Lisa Foster, May 9, 1993.

³⁸ Exhibit 35, Report of FBI interview of James M. Lyons, May 12, 1994.

³⁹ Exhibit 3, Report of FBI interview of Beth Nolan, June 7, 1994.

⁴⁰ Exhibit 15, Report of FBI interview with Director of White House Personnel David Watkins, June 22, 1994.

⁴¹ 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."

Events surrounding the death

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 22.⁴²

Marsha Scott, longtime Deputy Assistant to the President and Director of Presidential Correspondence, told the FBI that her relationship with Mr. Foster was a "personal friendship,"⁴³ having known him since 1967. Ms. Scott's office was in the Old Executive Office Building.⁴⁴ 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."⁴⁵

Ms. Scott first told the FBI that "[s]he does not remember what topics they talked about"⁴⁶ the last time she saw her friend of 25 years who died the next day, but that "he did not appear distracted or

⁴² Exhibit 36, Mr. Foster's calendar, Park Police file: "July 22, 1993, 1:15 p.m., Sharon lunch"

⁴³ Exhibit 37, Report of FBI interview report of Deputy Assistant to the President Marsha Scott, May 12, 1994.

⁴⁴ Exhibit 20, Report of FBI interview of Deputy Assistant to the President Marsha Scott, June 9, 1994.

⁴⁵ 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.

⁴⁶ Exhibit 37, Report of FBI interview of Deputy Assistant to the President Marsha Scott, May 12, 1994.

Events surrounding the death

distressed."⁴⁷ She later told the FBI that she had stopped by to ask him how the weekend on the Eastern Shore of Maryland had gone.⁴⁸

Webster Hubbell also stopped by Mr. Foster's office. He reportedly told the FBI he could not remember the "business matters discussed, if any, but does remember discussing the previous weekend the Foster and Hubbell families had spent together."⁴⁹

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.⁵⁰ Dr. Watkins prescribed Desyrl, 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."⁵¹ The doctor had

⁴⁷ 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...

⁴⁸ Exhibit 20, Report of FBI interview report of Deputy Assistant to the President Marsha Scott, June 9, 1994.

⁴⁹ Exhibit 1, Report of FBI interview of Associate Attorney General Webster Hubbell, April 13, 1994.

⁵⁰ 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."

⁵¹ 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

Events surrounding the death

prescribed Mr. Foster insomnia medication before, probably in December, seven months earlier.⁵²

"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."⁵³

The President testified that on the evening of Monday, July 19, he called Mr. Foster at home.⁵⁴ Hubbell and Lindsey were with the President when he placed the call.⁵⁵ 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,⁵⁶ "In the Line of Fire," with Hubbell and Lindsey. (The normal "movie night"

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.

⁵² 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."

⁵³ Exhibit 16, Report of FBI interview of Mrs. Lisa Foster, May 9, 1994.

⁵⁴ 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."

⁵⁵ Exhibit 40, Deposition of President Clinton, June 12, 1994.

⁵⁶ Exhibit 40, Deposition of President Clinton, June 12, 1994: "But he said -- first I asked him if he wanted to come to the movie."

Events surrounding the death

the White House was Friday,⁵⁷ 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."⁵⁸ Mr. Foster declined, according to Mr. Clinton, because he was home with his wife and wanted to stay there.⁵⁹

The President then requested to see Mr. Foster.⁶⁰ The two men scheduled to meet Wednesday, July 21, to discuss, according to the President, unspecified "organizational changes" being contemplated at the White House.⁶¹ 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 depressed⁶² or that he was considering resigning.⁶³

⁵⁷ Exhibit 13, Report of FBI interview of Assistant to the President Bruce Lindsey, June 22, 1994.

⁵⁸ Exhibit 40, Deposition of President Clinton, June 12, 1994.

⁵⁹ 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."

⁶⁰ 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.

⁶¹ Exhibit 40, Deposition of President Clinton, June 12, 1994.

⁶² 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'."

⁶³ 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

Tuesday, July 20

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.⁶⁴ It was the middle of the summer. He arrived at his White House office about 8:50 a.m.,⁶⁵ 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.⁶⁶

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 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 of 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."

⁶⁴ Exhibit 16, Report of FBI interview of Mrs. Lisa Foster, May 9, 1994.

⁶⁵ Exhibit 2, Report of FBI interview of Executive Assistant Deborah Gorham, April 19, 1993.

Tuesday, July 20

Mr. Foster's sister, Sheila Anthony, was with her mother when she opened it. "The letter from Foster concerned oil leases which had been 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."⁶⁷

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.⁶⁸

⁶⁶ 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.

⁶⁷ Exhibit 8, Report of FBI interview of Sheila Foster Anthony, April 26, 1994.

⁶⁸ 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

Tuesday, July 20

At around noon, Betsy Pond, White House Counsel Nussbaum's Executive Assistant, ordered Mr. Foster's lunch, a cheeseburger and French fries.⁶⁹ 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.⁷⁰

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.⁷¹ At about 1:00,⁷² 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."⁷³

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."

⁶⁹ Compare OIC, p. 109: "I talked to Vince on 7/19/93, at which time he complained of anorexia..."

⁷⁰ Exhibit 38, Report of FBI interview of Linda Tripp, April 12, 1994.

⁷¹ Exhibit 38, Report of FBI interview of Executive Assistant Linda Tripp, April 12, 1994.

⁷² 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 out of the office and stated 'I'll be back, there are M&Ms left in my office.'" [2130]

⁷³ 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

Tuesday, July 20

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 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."⁷⁴

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.'"⁷⁵ Gorham reported that he "had never left in the middle of the day before," but that he "appeared relaxed and normal."⁷⁶

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

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.

⁷⁴ Exhibit 41, Report of Park Police interview with Executive Assistant Betsy Pond, by Captain Charles Hume, July 22, 1993.

⁷⁵ 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."

⁷⁶ Exhibit 2, Report of FBI interview with Executive Assistant Deborah Gorham, April 19 and 26, 1994.

Tuesday, July 20

handling for the Clintons.⁷⁷ (Buck described Mr. Foster's remaining duties concerning the blind trust as being merely "ministerial."⁷⁸) Gordon Rather, a Little Rock Attorney who worked at Bruce Lindsey's and the President's old firm, also called,⁷⁹ reportedly about the President's appointment of federal court judges. Maggie Williams, Ms. Clinton's Chief of Staff, also called, as did William Kennedy.⁸⁰ Betsy Pond paged him at Nussbaum's request.⁸¹ When Mrs. Foster called around 5:00,⁸² 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.⁸³ Officially, Sheila, Sharon, and Web then went to the Foster

⁷⁷ Exhibit 12, Fiske Report, June 30, 1994. Exhibit 40, Deposition of President Clinton, June 12, 1994.

⁷⁸ Exhibit 42, Report of FBI interview of C. Brantly Buck, May 18, 1994. Exhibit 12, Fiske Report, June 30, 1994.

⁷⁹ 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."

⁸⁰ Exhibit 2, Report of FBI interview of Executive Assistant Deborah Gorham, April 19, 1993.

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

⁸² Exhibit 16, Report of FBI interview of Mrs. Lisa Foster, May 9, 1994.

⁸³ 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:

Tuesday, July 20

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..."⁸⁴ 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.⁸⁵

"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."

⁸⁴ 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 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.]

⁸⁵ 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."

Tuesday, July 20

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.⁸⁶

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

⁸⁶ Exhibit 45, Remarks by the President to the White House staff, July 21, 1993.

Tuesday, July 20

others were, remained in the OEOB. Mr. Kennedy reported to Mr. Foster.⁸⁷

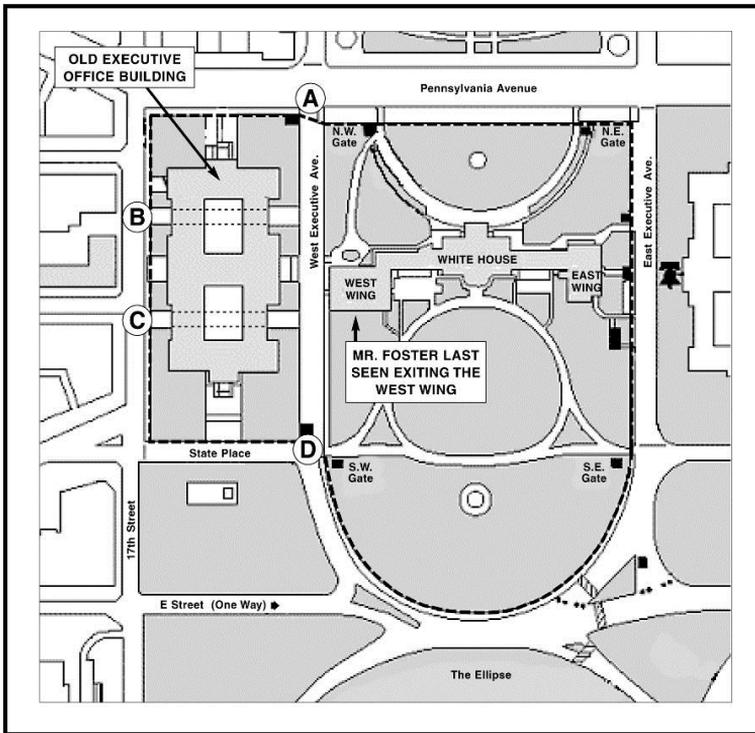
The Office of White House Personnel Security, of which Craig Livingstone served as Chief, was also in the OEOB.⁸⁸ Mr. Livingstone reported mostly to Mr. Kennedy, and so was a regular visitor to the White House Counsel's Office in the OEOB. Livingstone was also a regular visitor to Mr. Foster's office in the west wing.⁸⁹

⁸⁷ 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."

⁸⁸ 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."

⁸⁹ 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.

Tuesday, July 20



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.

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

Tuesday, July 20

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."⁹⁰

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 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...⁹¹

⁹⁰ 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 [sic] 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.

⁹¹ 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?

Fort Marcy Park

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,⁹² 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. 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.⁹³

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.

⁹² Exhibit 16, Report of FBI interview of Lisa Foster, May 9, 1994.

⁹³ 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.^{fn324} 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."^{fn325} Dr. Berman stated that Mr. Foster's suicide in Fort Marcy Park is "[s]imilar

Discovery of body

The FBI reported that she observed this man in the "northeast section of the park." Northeast is the opposite from where she had the man. 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."⁹⁹

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.

END EXCERPT

⁹⁹ Exhibit 54, Handwritten notes of FBI interview of Leslie Rutherford, May 17, 1994.

Overview

III. OVERVIEW OF THE COMPARISON OF THE PUBLICLY AVAILABLE EVIDENCE TO THE OIC'S REPORT

On July 15, 1997, Mr. Starr filed, under seal, with the United States Court of Appeals for the DC Circuit, Special Division for the purpose of Appointing Independent Counsels, its Report on the Death of Vincent W. Foster, Jr. Eighty-six days later, on October 10, 1997, the Court ordered it unsealed and released to the public. The OIC's interim Report is 114 pages long, exclusive of its twenty-four page Appendix, which it bound separately. It is double-spaced and has 353 footnotes. Its authors are unknown.¹⁴⁵

The available records, from which the exhibits below are drawn, include reports of various kinds, testimony, depositions, FBI and Park Police witness interview reports, photographs, laboratory reports, investigators' memos, and handwritten notes.

Of the 184 exhibits cited below, 134 of them are drawn from the volumes assembled by the 1994 Senate Banking Committee.¹⁴⁶ Except for those documents which are withheld or redacted (the most controversial), these volumes contain most of the records generated by the FBI under the Fiske probe, and many of the records generated under the first FBI/Park Police investigation. They were released in January of 1995. Of the 52 remaining exhibits, 25 were provided through Freedom of Information Act lawsuits. Fourteen exhibits are taken from the volumes assembled by the 1995 Senate Whitewater Committee, released in 1997.¹⁴⁷

¹⁴⁵ OIC, p. 15: "The OIC legal staff in Washington, D.C., and Little Rock, Arkansas, participated in... preparing this report."

¹⁴⁶ S. Hrg. 103-889. HEARINGS RELATED TO MADISON GUARANTY S&L AND THE WHITEWATER DEVELOPMENT CORPORATION – WASHINGTON, DC PHASE, Committee on Banking, Housing, and Urban Affairs, United States Senate, (redacted) Volumes I, II & XIV, available from the Senate Banking Committee clerk in January, 1995.

¹⁴⁷ S. HRG. 104-869. INVESTIGATION OF WHITEWATER DEVELOPMENT Corporation and Related Matters, SPECIAL COMMITTEE TO INVESTIGATE

Overview

Four exhibits are taken from the U.S. House of Representatives investigation into the Travel Office matter.¹⁴⁸ The five exhibits denoted with an asterisk* were not obtained from any official investigative records. The remaining four exhibits are the Clinger Report, a photograph released by ABC News, a report found in the National Archives, and the Fiske Report (*Report of the Independent Counsel In Re Vincent W. Foster, Jr.*). The Fiske Report, 58 double-spaced pages, was released to the public on June 30, 1994.

The OIC hides FBI agents' participation in its death probe by citing reports conducted during its tenure as "OIC." Because references to the term "OIC" could be to grand jury testimony, or to reports prepared by FBI agents, or to reports prepared by other investigators, there is no way to tell which of these reported witnesses' accounts are the interviewing FBI agents' version of the facts described.

OIC, p. 18-19, fn. 26:

"...As used in citations herein, the term 'OIC' refers to a transcript of either an interview or a grand jury appearance by a witness..."

In its footnotes, the OIC refers its readers to documents that purport to prove the conclusions it makes. Of these 353 footnotes, 265, or 75% of them, refer the reader to documents that are unavailable.

Description of withheld documents	Footnote references	Percentage of secret references
"OIC" documents	88	33%
FBI documents	62	24%
Dr. Henry Lee's Report	60	23%
Dr. Alan Berman's Report	30	11%

WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS, ADMINISTERED BY COMMITTEE ON BANKING, HOUSING, URBAN AFFAIRS UNITED STATES SENATE.

¹⁴⁸ H.R. 104-849. INVESTIGATION OF THE WHITE HOUSE TRAVEL OFFICE FIRINGS AND RELATED MATTERS, available September, 1996.

Description of withheld documents	Footnote references	Percentage of secret references
"OIC" documents	88	33%
Dr. Brian Blackbourne's Report	16	6%
Other documents and sources	7	3%
Total number of secret sources	265	100%

The OIC hired Dr. Henry Lee, a renowned forensic scientist, Dr. Brian Blackbourne, a forensic pathologist, Dr. Alan Berman, a "suicidologist," and a handwriting expert, Gus R. Lesnevis. All experts' reports remain withheld from public view, so that we do not even know their completion dates. The OIC claims to have provided its experts with all the relevant evidence to review. As you will see, it did not. All experts are confident in their opinions, apparently undaunted by the admitted scarcity of evidence.¹⁴⁹

Contrary to the impression given in its Table of Contents, the evidence in support of the Report's various conclusions are largely scattered throughout its 114 pages. Therefore, to analyze any given

¹⁴⁹ 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 lack of complete documentation of the original shooting scene; the lack of subsequent records and photographs of each item of physical evidence prior to examination; the lack of x-rays of Mr. Foster's body from the autopsy; the lack of documentation of the amount of blood, tissue, and bone fragments in the areas at the scene under and around Mr. Foster's head; the lack of close-up photographs of any definite patterns and quantity of the blood stains found on Mr. Foster's clothing and body at the scene; and the unknown location of the fatal bullet, which makes complete reconstruction of the bullet trajectory difficult. Lee Report at 485.

OIC, p. 114: "Dr. Berman concluded that '[i]n my opinion and to a 100% degree of medical certainty, the death of Vincent Foster was a suicide. No plausible evidence has been presented to support any other conclusion.'"^{fn353}

Exhibit 12, Fiske Report, June 30, 1994: "On the afternoon of Tuesday, July 20, 1993, in Fort Marcy Park, Fairfax County, Virginia, Vincent W. Foster, Jr., committed suicide by firing a bullet from a .38 caliber revolver into his mouth. As discussed below, the evidence overwhelmingly supports this conclusion, and there is no evidence to the contrary."

Overview

issue, one must peruse the entire Report in search of citations to evidence bearing on that issue. Consider looking in the OIC's 114-page Report to see its analysis of five important issues.

Wound	Gunshot Residue	Gun	Blood	Photographic Evidence
1, 8, 26, 27, 29, 30, 31, 32, 33, 34, 61, 63, 64, 75, 76, 111	1, 26, 28, 30, 32, 33, 42, 43, 44, 45, 46, 53, 58, 62, 63, 64, 65, 78, 79, 112	25, 26, 27, 28, 36, 37, 38, 39, 40, 41, 43, 45, 54, 61, 62, 77, 79, 80, 81, 82, 83, 84, 85, 110, 112	11, 14, 25, 26, 28, 29, 36, 38, 39, 40, 46, 47, 48, 49, 57, 59, 60, 61, 63, 64, 65, 66, 67, 68, 112, 113	16, 17, 21, 24, 25, 26, 27, 29 30, 31, 32, 33, 35, 42, 43, 45, 46, 47, 49, 52, 59, 60, 61, 62, 63, 64, 65, 66, 67, 72, 73, 78, 79, 81, 82, 87, 90, 93, 111, 113

The autopsy is the cornerstone of both the OIC's and the Fiske probe's reports. Officially, six experts have relied on its findings, four hired by the Fiske probe and two by Starr's. All of these experts agree that there was no neck wound. And none of them reported having found anything about the amount or configuration of blood at the scene that refutes or even calls into question the official conclusion of suicide in the park.

In the next 250 pages, for all the issues except depression, we will review most of the available evidence and compare it with the OIC's representations of the evidence, as well as the OIC's conclusions. We will also examine issues that the OIC omitted from its Report. Then, in Chapter X, we will explore the reasonable inferences to be drawn from the facts. As you review the evidence, keep in mind that our goal is to prove to you the existence of a cover-up, and please remember to keep an open mind until you have reviewed all the evidence.

IV. EVIDENCE OF KNOWLEDGE OF THE DEATH BEFORE THE OFFICIAL TIME OF NOTIFICATION

Summary: The OIC conceals that the FBI's Violent Crime Squad claimed it did not learn of the death until press accounts appeared the next day, that Fire & Rescue workers learned from Park Police by 6:37 that Mr. Foster was employed at the White House, and that William Kennedy learned of the death by 8:00. The OIC addresses only the time when Helen Dickey learned of the death. In doing so, it purportedly relies on telephone records to dismiss Arkansas Troopers' accounts that Dickey notified them of the death before 8:30, while claiming that the telephone record of the call to the Trooper is "not available."

In its three-page section entitled Notification (p. 91-94), the Report claims that *"the Secret Service was notified of Mr. Foster's death at about 8:30 p.m..."*

1. FBI's Violent Crime Squad

In addition to the White House, Mr. Foster's family, and the Secret Service, the FBI was notified. The OIC does not reveal who notified the FBI or when this notification took place. The FBI's Report of its initial death investigation¹⁵⁰ may set forth when the FBI was notified. The OIC does not reveal the existence of this Report, and it too is not publicly available.

The record demonstrates that on the evening of the death, the Park Police had been fully apprised, all the way up to its Regional Director. Park Police Lieutenant Patrick Gavin called Park Police Chief Robert Langston between 9:00 and 10:00 on the evening of the

¹⁵⁰ Exhibit 65, Deposition of FBI Agent Scott Salter, June 30, 1995: "[I]t's basically a summary of events from the 21st through the conclusion of, through August 4th or 6th or whatever it was, through the conclusion of the investigation that we did."

END EXCERPT

Photographs

not mentioned), Ms. Dickey's account is accurate, and long distance White House telephone records which could prove it are "*not available.*"¹⁷⁶

V. EVIDENCE THAT THE OIC CONCEALED THE DISAPPEARANCE OF PHOTOGRAPHS

Summary: Edwards took charge of the scene and took possession of Ferstl's approximately seven photographs taken of the body site. He absconded with them. The OIC conceals that Ferstl's Polaroids vanished by falsely claiming that (1) Ferstl's Polaroids are inventoried as being Edwards', and (2) Edwards took no photographs. The OIC conceals that Edwards did, in fact, take photographs by laiming that he did "not recall" whether he photographed Mr. Foster's body. Abt recalled that Edwards had taken photographs, as did Rolla and Braun.

The OIC conceals that the Polaroids that Rolla had taken had vanished by falsely reporting that Rolla was mistaken when he testified that he took at least two Polaroids of the back of Mr. Foster's head. Rolla testified that he was certain that he shot "backside" photographs, he inspected his Polaroids as they came out, he remembered what pictures he had taken, and that the "backside" photographs were in his office the night of the death, but he never saw them again. The OIC falsely reports that Rolla did not have a camera when the body was rolled.

¹⁷⁶ OIC, p. 93, fn. 288: White House Residence phone records indicate that a call was placed to the number of Dickey's father at 10:06 p.m. OIC Doc. No. DC-95-7; Dickey 302, 2/7/96, at 2. A call to the Arkansas Governor's Mansion is not reflected on these records. As indicated, the call may have been made from a phone in the White House not on the floors of the White House Residence: The Usher's Office employee who notified Dickey recalls Dickey making a call, but not in the Residence, soon after he notified her. 302, 5/21/96, at 2. Complete records for such calls are not available.

Photographs

The OIC concealed that the roll of 35-mm film produced usable photographs. It claims that the 35-mm film was underexposed," but offers no explanation. The FBI Lab falsely claimed that the "underexposed" negatives produced "limited detail." Three witnesses said that these photographs were clear, including the photographer who had shot the roll of film.

On May 2, 1994, Park Police Captain Charles Hume provided the FBI with all of the Polaroid photographs of the body site and parking lot that officially exist. The FBI's *Receipt for Property Received* inventories these photographs.¹⁷⁷ Officially, only thirteen Polaroids of the body site were taken¹⁷⁸ (fourteen according to an FBI Laboratory Report¹⁷⁹), two of which have been released.

The *Receipt for Property Received* denotes that of these thirteen, five, marked on the back "from... Sgt. [Robert] Edwards 7/20/93 on scene,"¹⁸⁰ are listed as depicting:

- 1 - Rear of Cannon
- 2 - Heavily foliated area
- 3 - VF's body - looking down from top of berm
- 4 - VF's body - focusing on the face
- 5 - VF's body - focusing on right shoulder/hand

END EXCERPT

¹⁷⁷ Exhibit 94, FBI Receipt for Property Received, Inventory of Polaroid photographs, May 2, 1994.

¹⁷⁸ OIC, p. 73: "Thirteen of the Polaroids provided to Mr. Fiske's Office and the OIC are of the body scene, and five are of the parking lot scene."

¹⁷⁹ Exhibit 95, FBI Laboratory Report, May 9, 1994: "Q73-Q86 Copies of fourteen death scene photographs of Vincent Foster."

¹⁸⁰ OIC, p. 73: "The backs of the other five say 'from C202 Sgt. Edwards 7-20-93 on scene.'^{fn213}"

Wounds

VI. EVIDENCE THAT THE OIC COVERED UP THE ABSENCE OF THE OFFICIAL MOUTH ENTRANCE WOUND & HEAD EXIT WOUND, AND THE EXISTENCE OF A NECK WOUND

Summary: Officially, there was an entrance wound in the soft palate and an exit wound about the size of a half-dollar about three inches below the top of the back of the head.

Witness accounts of a bullet wound in Mr. Foster's neck and the absence of the official mouth entrance wound and skull exit wounds: The Medical Examiner reported a gunshot wound to the neck, Paramedic Arthur was certain he saw a small caliber entrance wound on the neck, and there is no record of any of the 26 persons who viewed Mr. Foster's body before the autopsy having seen either official entrance or exit wounds.

The autopsy: Three officials claimed that, on their own initiative and without prior discussion, each was responsible for rescheduling the autopsy from Thursday to Wednesday, July 21. Because the autopsy was moved up to 15 hours after the body's discovery, the two investigating police officers did not attend, in violation of standard operating procedure (SOP), having worked all night. Dr. Beyer began the autopsy before the police arrived, in violation of SOP, during which time he removed the soft palate and tongue, the only evidence of both the actual and official entrance wounds. Dr. Beyer refused to tell the attending police the identity of the man who assisted him in the autopsy. He did not know the caliber of weapon, so he left that portion blank on his Report of Autopsy. He and he alone reported that gunpowder was on the soft palate. But Dr. Beyer's own laboratory could find no traces of gunpowder on the tissue from the soft palate. The day of the autopsy, the FBI was apprised that its "preliminary results" showed "no exit wound." The

Wounds

attending police reported that Dr. Beyer told them results of the x-rays. Dr. Beyer later claimed there were no x-rays. There was no official estimate of time of death. The evidence of the bullet trajectory is conflicting.

Bloodstains consistent with the neck wound: The OIC conceals that the bloodstains are consistent with the neck wound, but not with the official mouth wound. Blood present on Mr. Foster's neck, in his mouth, collar, right-side and back-side of his shirt is consistent with its having drained from the neck wound.²²⁵

Official excuse for blood on Mr. Foster's right side is that it drained from his mouth when an "early observer" moved the head to check for a pulse, then repositioned it -- but Edwards did it to obscure or camouflage the existence of the neck wound: The OIC posits that (because no neck wound existed) the blood on Mr. Foster's right side had drained from his mouth when an "early observer" moved the head to check for a pulse, then repositioned it. The OIC conceals that no one admitted to having moved the head or seeing it being moved, and that no one tried resuscitation because Mr. Foster clearly appeared to have been dead for some time.²²⁶ The OIC conceals that the

²²⁵ Officer Fornshill claimed he could not recall the appearance of the blood at the scene. Paramedic Gonzalez saw blood on the right side. Firefighter Hall saw blood on the right collar. Paramedic Arthur saw the neck wound and blood coming from it. Pisani saw blood on the right shoulder. Wachsa saw it in mouth and on the shirt. Ferstl saw blood around the mouth. Edwards' observations are unknown. Hodakievic saw blood under the head on the ground. Gavin saw blood out the mouth. Officers Rolla and Braun saw blood on right shoulder. Simonello saw blood close to the jawline and right shoulder. Abt saw it on the shirt and right collar. There is no record of what Watson and the "intern" may have seen. Dr. Haut reported that blood on the back of the head was "matted," trauma to the neck, and that the wound looked like it was caused by a "low velocity weapon." Ashford coded the death homicide and he did "not recall getting blood on his uniform."

²²⁶ Dale testified that there was "no doubt he was dead." Fornshill denied having moved the head and related that neither Gonzalez nor Hall had moved the

Wounds

blood on the right shoulder and shirt could not have been caused by an "early observer" because all early observers saw these stains as they arrived.²²⁷

The OIC conceals that the blood was dry until after Edwards had been alone at the site.²²⁸ Edwards moved the head to cause blood to drain from the mouth to the neck to obscure and camouflage the existence of the neck wound.

head. Gonzalez said that no one checked for a pulse because Mr. Foster was clearly deceased and had been for "2-4 hours." Hall saw no one touch the body and he "backed off" because he was not a "medic." Arthur "did not check for a pulse" because Mr. Foster "was obviously dead." Iacone said that "medics confirmed there would be no efforts to resuscitate."

²²⁷ Dale saw a "stain on his right shoulder." Gonzalez testified that he saw the bloodstain "on the right shoulder... [in the] clavicle area." Hall said it was soaked into the collar. Arthur saw it on the right shoulder of the shirt. Pisani saw blood on Mr. Foster's right shoulder. Wachasaw saw blood on the shirt. Pisani saw "blood on Mr. Foster's right shoulder."

²²⁸ Fornshill testified that the blood was "dried... dark in color... [and] flaking." Gonzalez testified that the blood he saw was "dry." Hall saw blood on the collar but not on face or shirt, and said that the photos showed blood that he did not see. Arthur testified the blood was not running. Pisani saw no blood on the face and said that the photographs showed more blood than he saw. Ferstl saw a small amount of blood around the mouth, which was "not fresh." Edwards, interviewed only in 1995, ordered Fornshill to leave the park, took Ferstl's photos and ordered him back to the parking lot, leaving Edwards alone at the site -- after which time the blood was wet. Hodakievic (perhaps at the site before and after Edwards) did "not recall" seeing any blood. Gavin saw blood "trickling out of the mouth and running down the right side of the face." Rolla saw wet blood coming out of the nostril and mouth and down the face and also wet on the shirt and shoulder and ground. Abt saw both "dried and liquid" blood on the face. Simonello saw "blood running from the nose" and on the cheek near the jawline. Braun saw it in the nose and mouth area of the chin near the right shoulder and running down the right side of the face.

The OIC conceals that the only witnesses who saw the blood transfer contact stain arrived at the site after Sergeant Edwards had been alone with the body.²²⁹

Blood quantity insufficient: The OIC conceals that the blood quantity observed was consistent with death caused by a small-caliber low-velocity bullet, and inconsistent with a point-blank shot to the mouth with .38 caliber high-velocity ammunition.²³⁰ The OIC's claim of "blood-like stains" on the vegetation is contradicted by the accounts of witnesses at the body site.²³¹

²²⁹ Rolla saw a transfer stain on the face. Abt saw a blood transfer stain on lower right cheek. Evidence Technician Simonello testified that he saw the transfer bloodstain "around the shirt collar, shoulder area."

²³⁰ Dale said there was no blood around the head. Fornshill saw a "slight trail of blood" from the mouth and could not "recall any other blood." Gonzalez testified that the scene did not fit the usual .38 caliber gunshot head wound. Hall saw blood on the shirt and noticed no other blood. Arthur saw some around the mouth and nose but mostly on the right shoulder of the shirt. Pisani did not recall seeing any blood around the body. Wacha saw blood only on the mouth and shirt. Iacone did not recall seeing any blood. Ferstl saw a "small amount" of blood around the mouth and did not recall any from the nose or on the shirt. Hodakievic, who apparently viewed the body both before and after Edwards had been alone with it, said "she did not notice any blood on the decedent's face or on his shirt." Lieutenant Gavin saw a "trickle... out of the mouth" and did not recall blood from nose nor on the shirt. Rolla said blood "was not all over the place, it was directly under his head." Abt said that aside from the blood on the shirt, there was no evidence in "immediate vicinity of [the] death scene." Simonello said there "wasn't a great deal" of blood. There is no record of Braun's having commented on the quantity of blood. Dr. Haut did "not see blood on Foster's face..., [the] volume of blood [on the back of the head was] small and he did not recall seeing blood on... [the] shirt." Harrison did "not recall observing any blood" and filed no hazardous material (blood) report.

²³¹ Fornshill did not relate having seen any blood on the vegetation. Gonzalez testified that the scene was unusual in appearance for a gunshot wound to the head. Pisani did not notice any blood around the body. Rolla reported "no blood on the plants or trees surrounding... [the] head." Abt observed no evidence in the "immediate vicinity of death scene." Dr. Haut remembered "no blood... on vegetation around the body." Ashford saw no blood on the ground.

END EXCERPT

The autopsy

White House Officials Associate Counsel William Kennedy and Chief of Personnel Security Craig Livingstone both testified that they went to the hospital morgue where they viewed Foster's body. There is no record of what they observed.

2. The autopsy

All experts and both the Starr and Fiske reports depend primarily on Dr. Beyer's Report of Autopsy in concluding suicide in the park. The OIC cites the autopsy over eighty times, but reveals very little about it.

OIC, p. 34:

"Dr. Beyer's conclusions were reviewed by two sets of experts, one set retained by the OIC and the other by Mr. Fiske's Office. Their analyses of Dr. Beyer's findings and of the relevant laboratory analyses are outlined below. They confirm the conclusions reached at the autopsy."

a. Rescheduled

The body was discovered at 6:00 p.m. on Tuesday, July 20. The autopsy was initially scheduled for Thursday, July 22. But Dr. Beyer began the autopsy just thirteen hours after the body had been removed from the park. He had begun the autopsy sometime before 10:00 a.m. on Wednesday, July 21.

As of Tuesday evening, the White House understood that the autopsy was to be performed on Thursday, a day-and-a-half after the body had been discovered. Deputy Assistant to the President Bill Burton wrote that the autopsy had been scheduled for "7:00 a.m." Thursday morning.²⁸⁵

²⁸⁵ Exhibit 122, Deposition of Deputy Assistant to the President Bill Burton, July 5, 1995: Q. Who wrote those notes? A. They're in my handwriting. Q. Now, directing your attention to 450, are those notes or writings that you took down on the evening of July 20 as you were getting basic information and phone numbers from

The autopsy

Captain Hume,²⁸⁶ Major Hines²⁸⁷ and Dr. Beyer each claim that they were responsible for rescheduling the autopsy. The investigators on the case, Rolla and Braun, were told from two different sources that it was moved up "at the request of the White House."²⁸⁸

According to Sergeant Rule, Captain Hume moved the autopsy up at Chief Langston's request. Hume testified he moved it up to that morning at the request of the White House.²⁸⁹

As Rule, Rolla, Braun and Abt discussed the probable timing of the autopsy at the police station at 6:00 Wednesday morning, the autopsy had already been scheduled to occur just hours later at 10:00 a.m. And when Dr. Beyer's office told Rolla at 6:30 Wednesday

various people regarding discovery of Mr. Foster's body? A. I can't tell from looking at them if I wrote them that evening or the next day. *** Q. Now it says here at the bottom, "autopsy 7:00 a.m., 7-22-93, two to three hours." A. I do not remember where I got that information. I do not remember where I got that information.

²⁸⁶ Exhibit 123, Deposition of Park Police Captain Charles Hume, July 22, 1994: "The only thing I asked Dr. Beyer if he could move the autopsy up to get that done as soon as possible."

²⁸⁷ Exhibit 124, Deposition of Park Police Major Robert Hines, July 25, 1994: "Q. But this was something that you initiated? A. I initiated it, yes. Q. And no one suggested this to you? A. Yes. And I've done that before."

²⁸⁸ Exhibit 101, Deposition of Park Police Investigator Cheryl Braun, July 23, 1994: A. Did someone tell you explicitly that the autopsy was being moved up because the White House had requested it? A. Yeah. Q. Who told you that? A. I believe I was speaking to Detective Squires. Q. Who is that? A. He is another detective in the office. But I am fairly certain that's who I was speaking to. But I am not positive on that. And yeah, I had been told that at the request of the White House the autopsy was moved up.

Exhibit 6, Deposition of Park Police Investigator John Rolla, July 21, 1994: "[The reschedule had been] specifically at the request of the White House."

²⁸⁹ Exhibit 123, Deposition of Park Police Captain Charles Hume, July 22, 1994: "Q. Okay. And do you recall who asked you to move the autopsy date? A. I believe it was Major Hines asked me... that request came from the White House."

The autopsy

morning that the autopsy would not be performed until the next day,²⁹⁰ it had already been scheduled to be performed three and a-half-hours later.

On Wednesday morning at 10:00, Major Hines and Chief Langston met with White House staff at the White House to brief them on the case. The meeting lasted about "30 minutes."²⁹¹ During that 10:00 a.m. White House briefing, according to Hines, the subject of funeral arrangements came up. According to Hines, he told White House personnel that an autopsy would have to be performed. Hines testified that, without being asked to do so, he volunteered to "try and get it scheduled [for] that day." Hines testified that "sometime after" that 10:00 a.m. meeting, he had his first discussion about the "timing or scheduling" of the autopsy. Hines claimed that after his White House briefing, he "asked the investigators to talk to the doctor to see if they would do the autopsy faster."²⁹²

Major Hines' account that he asked that the autopsy be moved up after the White House briefing obviously cannot be true. The

²⁹⁰ Exhibit 6, Deposition of Park Police Investigator John Rolla, July 21, 1994.

²⁹¹ Exhibit 124, Deposition of Park Police Captain Robert Hines, July 25, 1994: "Q. How long was the presentation at the White House? A. I would say about 30 minutes, 25, 30 minutes."

²⁹² Exhibit 124, Deposition of Park Police Major Robert Hines, July 25, 1994: Q. You mentioned something about scheduling the autopsy. When did you first have any discussions about the timing or the scheduling of the autopsy? A. Well, at some time after that, you know. I said I would arrange for the autopsy, to try to get it scheduled that day if we could. Q. You said that at the White House? A. At the White House meeting, yes. Q. Why did it come up? A. I think they were talking about funeral arrangements. I don't recall who said what about it or what exactly was said. And I said we would have an autopsy. They asked when. And I said, well, I don't know, I'd try to find out. It was later I found out that it was scheduled for sometime later. And I asked the investigators to talk to the doctor to see if they would do the autopsy faster. Q. But did anyone at the White House specifically ask you to move the autopsy up? A. They did not. They did not.

The autopsy

autopsy had begun before 10:00 a.m., when Hines and Langston met at the White House for the briefing.

Dr. Beyer testified before the Senate that both the White House and the Park Police were wrong. Dr. Beyer insisted that it was his idea to change the scheduled time of the autopsy.

- Q. Officer Rolla, you asked earlier about this question of moving up the autopsy. It is agreed that the autopsy was moved up by a day. Is that correct, doctor?
- A. Well, as soon as I heard about the case, I had the body transported over, and we make every effort to do an autopsy within less than 24 hours if possible. Therefore, once I could get the body over, we proceeded with the autopsy.
- Q. But did you receive a message, doctor, asking you to try to proceed faster than normal?
- A. No, sir.
- Q. It is my understanding that Major Hines, who is sitting behind you but not at the table, that his recollection is different, and that he believes that the request to move it up was in order to facilitate the transfer of the body to Arkansas. Is that accurate, Mr. Rolla? Do you remember that, Ms. Braun?
- A. (Ms. Braun). That was my understanding, when we left that morning, the autopsy was set for the day after the 22nd, and then I found out later on in the day that it had gotten moved up and that they did the post on the 21st.
- Q. And it was your understanding that that was in order to facilitate the transfer of the remains to Arkansas?
- A. (Ms. Braun). Yes, that is my recollection.
- Q. Now, doctor, whether or not there was any request to move the time of the autopsy up, this would obviously call into question whether or not there

The autopsy

was any reason for so doing. And I ask you, sir, whether or not, in the course of any of the 20,000 autopsies you have performed, you have ever altered, changed, or adjusted the outcome of your autopsy to fit anybody's requirements or schedule?

- A. Not anybody else's schedule to me. We may alter it to fit our own schedule.²⁹³

The Report's entire discussion of the timing of the autopsy appears below.

OIC, p. 28:

"The autopsy occurred on July 21, 1993..."

The autopsy

OIC, p. 29, fn. 63:

Id. at 9. Dr. Beyer had no conversations with members of the White House, the Foster family, or Foster family attorneys in connection with the autopsy. Id. at 6.

b. Failure of investigators to attend

After Park Police Sergeant Robert Rule learned that the autopsy had been moved up, he "called Investigator Rolla at home and told him they are going to do the autopsy today [Wednesday]." Rule said he wanted to give Rolla the opportunity to attend because "the investigators that actually worked the crime scene" should "go to the autopsy whenever possible."²⁹⁴ When Rolla "got the call [at home] at

²⁹³ Exhibit 125, Senate Testimony of Dr. James Beyer, July 29, 1994.

²⁹⁴ Exhibit 126, Deposition of Park Police Sergeant Robert Rule, July 26, 1994: "You know, it is nice to have the investigators that actually worked the crime scene go to the autopsy whenever possible but it is not essential. So I called Investigator Rolla at home and told him that they are going to do the autopsy today."

The autopsy

8:30 a.m.," he had been asleep, having worked all night,²⁹⁵ and declined to attend the autopsy.

The OIC fails to address the issue of why Dr. Beyer performed the autopsy without the attendance of any of the investigating officers. That would have been standard operating procedure so investigators and the doctor can exchange information, according to Park Police Investigators Rolla²⁹⁶ and Braun.²⁹⁷ The OIC omits this fact.

c. Entrance wound evidence removed

The OIC hides the fact that the autopsy began before the police arrived, in violation of the requirements of the Medical Examiner's Office.²⁹⁸

The OIC tells us (p. 28) that "[t]he autopsy occurred on July 21, 1993, in the presence of six persons" and (p. 64) that "six persons who attended the autopsy, and who therefore were able to examine the

²⁹⁵ Exhibit 6, Deposition of Park Police Investigator John Rolla, July 21, 1994.

²⁹⁶ Exhibit 6, Deposition of Park Police Investigator John Rolla, July 21, 1994:
Q. Is it SOP to have someone who was at the scene of the death attend the autopsy?
A. Yes. That would be normal operating procedure. As I say, there may be nothing – there may be questions, you like to explain the scene, and the doctor likes to hear besides reading the report and looking at the photographs. He can explain things if you have questions. The investigator may have questions that he needs to ask the doctor.

²⁹⁷ Exhibit 101, Deposition of Park Police Investigator Cheryl Braun, July 23, 1994: "Q. Is it standard operating procedure for an investigator or someone who was at the death scene to attend the autopsy? A. Yes."

²⁹⁸ Exhibit 128, Deposition of Dr. James C. Beyer, July 13, 1994:
Q. Doctor, did you personally make the decision that the Park Police should be present during the autopsy?
A. That's a requirement of my office. Any time you have a gunshot wound and particularly one that might be of a suspicious character, the police have to be present during the autopsy.

The autopsy

body itself, confirmed that there were no wounds on Mr. Foster's body other than the mouth-head bullet wound."

Park Police Detective James Morrissette attended the autopsy, and wrote a report regarding it. The OIC misrepresents the contents of that report.

OIC, p. 28:

"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.'"

The OIC deceptively omits the next sentence of Morrissette's Report.

"Prior to our arrival the victim's tongue had been removed as well as parts of the soft tissue from the pallet."²⁹⁹

Thus, the OIC implies that the Park Police Officers who attended the autopsy examined the body and confirmed that the only wound was the official mouth-head wound.

The function of the officers who attended the autopsy, Evidence Technicians Hill and Johnson, was to photograph the autopsy and collect and preserve evidence such as the clothing. Detective Morrissette's knowledge of the entrance and exit wounds came from what Dr. Beyer told him.³⁰⁰ The other two people who attended the

²⁹⁹ Exhibit 127, Park Police Report of Park Police Detective James Morrissette, July 21, 1993.

³⁰⁰ Exhibit 128, Deposition of Dr. James Beyer, July 13, 1994: "I indicated to him [Detective Morrissette] where the entrance wound was, where the exit wound was, and I thought there was a strong suspicion of powder debris around the entrance site."

The autopsy

autopsy were Sergeant Rule³⁰¹ and Dr. Beyer's assistant.

d. Refusal to identify autopsy assistant

Normally, an associate pathologist in the Medical Examiner's Office, Dr. Field, would assist Dr. Beyer in performing the autopsy.³⁰² But for Mr. Foster's autopsy, an "assistant" aided Dr. Beyer.³⁰³ The OIC did not identify him, only telling us (p. 28) that "*Dr. James Beyer, Deputy Chief Medical Examiner, conducted the autopsy, aided by an assistant.*"³⁰⁴

The OIC is not alone in its refusal to identify this man. Dr. Beyer refused to identify his assistant to the Park Police who attended the autopsy, as Sergeant Robert Rule related under oath.

"I asked just the name of his assistant and Dr. Beyers [sic] is kind of an older guy and very experienced and he put me in my place very quickly, he says you are dealing with me here, you don't need his name."³⁰⁵

³⁰¹ Exhibit 126, Deposition of Park Police Sergeant Robert Rule, July 26, 1994.

³⁰² Exhibit 128, Deposition of Dr. James Beyer, July 13, 1994: "If there's an autopsy to be done, normally we [Dr. Beyer & Dr. Field] do them together."

³⁰³ Exhibit 128, Deposition of Dr. James Beyer, July 13, 1994: "Q. As the deputy chief medical examiner, are there other medical personnel that work under you? A. I have an associate pathologist who works with me... Q. Did Dr. Field participate in this autopsy in any way? A. No."

³⁰⁴ See also, OIC, p. 31: "Dr. Beyer's assistant confirmed that Dr. Beyer inserted a probe through the path of the bullet... The assistant recalled that after the brain was removed and visually inspected, Dr. Beyer dissected it... and that no bullet fragments were located in the brain. 302, 9/11/95, at 2-3." OIC, p. 33: "Dr. Beyer's assistant, for example, said he did not see any other wounds..."

³⁰⁵ Exhibit 126, Deposition of Park Police Sergeant Robert A. Rule, July 26, 1994: Q. Do you remember any of conversations you had during the autopsy. A. One. I asked just the name of his assistant and Dr. Beyers (sic) is kind of an older guy and very experienced and he put me in my place very quickly, he says you are

The autopsy

e. Caliber of weapon unknown

Although Dr. Haut had not indicated to Dr. Beyer whether the death resulted from suicide or homicide,³⁰⁶ Dr. Beyer was unconcerned whether the sizes of the wounds were consistent with the official .38 revolver. He did not know what caliber the weapon was until after he had completed his Report of Autopsy,³⁰⁷ so he left that portion of the Report requesting the weapon's caliber blank.³⁰⁸ The only information Dr. Beyer did have going into the autopsy was that Mr. Foster "was found with a weapon in close vicinity to the body."³⁰⁹

f. Lab Report may contradict the existence of the official entrance wound

The gun could not have been shot without the discharge of gunshot residue, and there was none found on Mr. Foster's face,³¹⁰ eye

dealing with me here, you don't need his name. So we kind of knew who he was -- Dr. Beyers (sic) is a very nice guy but he is all business.

³⁰⁶ Exhibit 128, Deposition of Dr. James C. Beyer, July 13, 1994: "What did Dr. Haut tell you [on July 21st] was the probable cause of death? A. It appeared to be a gunshot wound. Q. Did he say it was a suicide? A. Not at that time, no."

³⁰⁷ Exhibit 128, Deposition of Dr. James C. Beyer, July 13, 1994: "Q. Doctor, do you know what type of cartridge was involved in this case? A. At the time of the autopsy, no, sir."

³⁰⁸ Exhibit 23, Report of Autopsy, Gunshot Wound Chart.

³⁰⁹ Exhibit 128, Deposition of Dr. James C. Beyer, July 13, 1994: "Q. What other information [besides no signs of struggle] did you look to in this case? A. The police telling me that he was found with a weapon in close vicinity to the body. Q. Any other information? A. No."

³¹⁰ Exhibit 129, Fiske's pathologists' Report of interview with Dr. Beyer, March 31, 1994: "Face: ...No evidence of gunpowder residue, soot or stippling..."

The autopsy

area,³¹¹ nose,³¹² lips,³¹³ teeth,³¹⁴ or hard palate.³¹⁵

Two of the Fiske probe's four pathologists interviewed Dr. Beyer on March 31, 1994, then wrote a report of that interview. That Report evidences that Beyer told these doctors that he had found "large quantities" of gunpowder when he viewed sections of the soft palate under a microscope.

"5 slides... [containing] 13 sections of [the] soft palate... demonstrate large quantities of black foreign material... consistent with gunpowder residue".³¹⁶

This information was a cornerstone of the pathology panel's Report.

"The large quantity of gunpowder residue present on microscopic sections of the soft palate indicates that Mr. Foster placed the barrel of the weapon into his mouth with the muzzle

³¹¹ Exhibit 129, Fiske's pathologists' Report of interview with Dr. Beyer, March 31, 1994: "Conjunctivae: No evidence of... gunpowder residue..."

³¹² Exhibit 129, Fiske's pathologists' Report of interview with Dr. Beyer, March 31, 1994: "Nose: Unremarkable."

³¹³ Exhibit 129, Fiske's pathologists' Report of interview with Dr. Beyer, March 31, 1994: "Lips: ...No gunpowder residue identified."

³¹⁴ Exhibit 129, Fiske's pathologists' Report of interview with Dr. Beyer, March 31, 1994: "Teeth: Intact... No gunpowder residue identified."

³¹⁵ Exhibit 129, Fiske's pathologists' Report of interview with Dr. Beyer, March 31, 1994: "Hard palate: Intact and without evidence of gunpowder residue."

³¹⁶ Exhibit 129, Pathologists' Report of interview with Dr. Beyer, March 31, 1994.

The autopsy

essentially in contact with the soft palate when he pulled the trigger."³¹⁷

The pathologists' Report was, in turn, a cornerstone of the Fiske Report, released to the public on June 30, 1994.

"Microscopic sections of Foster's soft palate... taken during Foster's autopsy reveal large quantities of gunpowder..."³¹⁸

The Fiske Report informs its readers that its "Pathologist panel was able to examine" these sections of the soft palate, implying that it had.

The pathology panel had apparently submitted their undated Report to the authors of the Fiske Report without having seen the FBI Lab's May 9, 1994 Report. That FBI Lab Report refers to an earlier report by Dr. Beyer's own laboratory.

"No ballshaped gunpowder was identified on the tissue samples from the inside of Foster's mouth, when examined at the Office of the Medical Examiner for Northern Virginia."³¹⁹

That was a problem. So on June 13, 1994 the FBI issued another Lab Report attempting to explain why no ballshaped gunpowder was found on the tissue samples.

It was previously reported that no ball-shaped gunpowder was

³¹⁷ Exhibit 130, Forensic Pathology and Medical Examiner-related Findings and Conclusions pertaining to the Investigation of the Death of Vincent W. Foster, Jr., undated.

³¹⁸ Exhibit 12, Fiske Report, June 30, 1994: "The Pathologist panel was able to examine microscopic sections of Foster's soft palate obtained during the autopsy. These sections reveal large quantities of gunpowder..."

³¹⁹ Exhibit 95, FBI Lab Report, May 9, 1994.

The autopsy

identified on the tissue samples from the inside of Foster's mouth... [but] these tissue samples were prepared in a way which is not conducive to retaining unconsumed gunpowder particles... [so] [t]he FBI Laboratory findings are not inconsistent with the pathologists' Report... in which the firearm was in Foster's mouth.³²⁰

In short, the "large quantity of gunpowder residue [which was] present on microscopic sections of the soft palate" had vanished between the time that Dr. Beyer observed it and "when [it was] examined [by someone else] at the Office of the Medical Examiner for Northern Virginia."

The OIC killed this scientific anomaly with silence.

OIC, p. 32:

The [autopsy] report states that '[s]ections of the soft palate' were 'positive for powder debris,' and Dr. Beyer said that the gunpowder debris in the mouth was 'grossly present,' meaning that it could be seen with the naked eye, and was 'present in a large amount.'^{fn72}

g. FBI apprised of "preliminary results" of "no exit wound"

A heavily redacted Teletype from the FBI's Washington Metropolitan Field Office to the FBI's Director (the acting FBI Director at the time was Floyd Clarke), confirmed that the FBI was apprised of the autopsy results on July 21, 1993, the same day it was performed. Far from what the OIC related, the Teletype reported the absence of an exit wound.

³²⁰ Exhibit 27, FBI Lab Report, June 13, 1994.

The autopsy

"[P]reliminary results include the finding that a .38 caliber revolver, constructed from two different weapons, was fired into the victim's mouth with no exit wound."³²¹ (emphasis supplied)

At the time the Teletype was sent from the FBI's Washington Metropolitan Field Office, Robert Bryant served as its Agent-in-Charge. He has since been promoted to Deputy Director, second in command to Mr. Freeh.

h. X-rays vanished

There are several conflicting reports regarding the x-rays. These include that x-rays were taken and readable, x-rays were taken but unreadable, that no x-rays were taken, that the x-ray machine was broken, and that it worked sometimes, but not for Mr. Foster's autopsy. Dr. Beyer could not explain how he told the Park Police the results of the x-rays he claimed not to have taken.

The OIC reports that x-rays had in fact been taken, but were unreadable. Yet, Detective Morrissette, who attended part of the autopsy, wrote that Dr. Beyer explained the results of the x-rays.

"Dr. Beyers [sic] stated that x-rays indicated that there was no evidence of bullet fragments in the head."³²²

The OIC's excuse is simply that Dr. Beyer somehow stated what the x-rays showed without having taken readable x-rays.

³²¹ Exhibit 131, Teletype from the FBI's Washington Metropolitan Field Office to the Director of the FBI, July 23, 1993: "[T]o confirm referenced telcalls, on 7/21/93 [the day Dr. Beyer performed the autopsy]... preliminary results include the finding that a .38 caliber revolver, constructed from two different weapons, was fired into the victim's mouth with no exit wound."

³²² Exhibit 127, Report of Park Police Detective James Morrissette, July 21, 1993.

The autopsy

OIC, p. 76, fn. 224:

"...Dr. Beyer made that statement and reached that conclusion without x-rays..."

The OIC recounts that Dr. Beyer's unnamed "assistant recalled... taking the x-ray" with the "recently obtained new x-ray machine."

OIC p. 75-76:

The assistant stated that the machine sometimes would expose the film and sometimes would not. In this case, the assistant recalled moving the machine over Mr. Foster's body in the usual procedure and taking the x-ray. He said he did not know until near the end of the autopsy that the machine did not expose the film.^{fn222} In addition, like Dr. Beyer and the assistant, the administrative manager of the Medical Examiner's Office recalled "numerous problems" with the x-ray machine in 1993 (which, according to records, had been delivered in June of 1993).^{fn223}

The OIC offers no explanation of why the x-rays were not inspected "until near the end of the autopsy," as opposed to the beginning. (The Fiske Report had reported that x-rays had not been taken at all.³²³) The FBI's check of the records did not include a review of the service records for the new multi-thousand-dollar x-ray machine, according to an affidavit of an individual who did check.

[T]he technician who was responsible for installing and servicing this machine, Mr. Jesse Poore... denied that there had been any trouble with the machine, which he had installed in June 1993. He checked his records and reported that the machine was installed on June 15, 1993 and that the first service

³²³ Exhibit 12, Fiske Report, June 30, 1994: "The office X-ray machine was inoperable at the time of Foster's autopsy, and as a result no X-rays were taken."

The autopsy

call was on Oct. 29, 1993 to make an adjustment to make the pictures darker.³²⁴

Thus, the OIC posits that the new x-ray machine had "*numerous problems*" making the pictures too dark. Yet, service was not requested for four months after its purchase, three months after Mr. Foster's autopsy, at which time service was requested because the pictures were too light.

On July 29, 1994, Dr. Beyer testified before the United States Senate Banking Committee.

The autopsy

Senator FAIRCLOTH. Dr. Beyer, your autopsy report indicates that you took x-rays of Mr. Foster.

Dr. BEYER. I had anticipated taking them, and I had so stated on one of my reports.

Senator FAIRCLOTH. Your autopsy report says you took x-rays of Mr. Foster. Did you?

Dr. BEYER. No, sir.

Senator FAIRCLOTH. Why did you say you did if you didn't?

Dr. BEYER. As I indicated, I made out that report prior to actually performing the autopsy. We'd been having difficulty with our equipment, and we were not getting readable x-rays. Therefore, one was not taken.

Senator FAIRCLOTH. What was wrong with the x-ray machine?

Dr. BEYER. We had a new machine; we had new grids; and we had a new processor. We were having a number of problems.

Senator FAIRCLOTH. Why didn't you call Fairfax Hospital and arrange for a portable x-ray machine to be brought in for your use in such an important occasion?

³²⁴

*Exhibit 132, Affidavit of Reed Irvine re interview with Mr. Jesse Poore.

The autopsy

Dr. BEYER. Because this was a perforating gunshot wound. If it had been a penetrating one, I would have gotten an x-ray of the head.

* * *

Senator FAIRCLOTH. Did you or the Medical Examiner's office have your servicing company come in and fix the x-ray machine?

Dr. BEYER. We were trying to remedy our problems. At that particular time we were not getting readable x-rays.

Senator FAIRCLOTH. When was it repaired?

Dr. BEYER. I have no x-rays in my files between July 6 to the 26. After July 26, 1993, we were getting x-rays.

Senator FAIRCLOTH. You mean for 20 days you ran a coroner's office and did autopsies without an x-ray machine?

Dr. BEYER. We don't take x-rays on very many cases. Primarily only gunshot cases.

Senator FAIRCLOTH. The Park Police officers who were present at the autopsy said you told them not only was an x-ray taken, you also told them the results of the x-ray. How do you account for the contradiction?

Dr. BEYER. I have no explanation because I did not take an x-ray.

Senator FAIRCLOTH. How did you tell the Park Police the results of an x-ray that you didn't take?

Dr. BEYER. I don't recall telling --

Senator FAIRCLOTH. Well, they do.

Dr. BEYER. I have no explanation.

* * *

Dr. BEYER. The equipment was not working, and I saw no need to take an x-ray.

Senator FAIRCLOTH. You saw no need to take an x-ray?

Dr. BEYER. No, sir.³²⁵

³²⁵ Exhibit 125, Testimony of Dr. James C. Beyer before the United States Senate Banking Committee, July 29, 1994. Compare H. Schneider, *Senate Banking*

The autopsy

According to the OIC, Dr. Beyer "*checked the box [reporting that x-rays were made] before the autopsy.*"

OIC, p. 76:

"With respect to the check of the x-ray box on the report, Dr. Beyer stated that he checked the box before the autopsy while completing preliminary information on the form and that he mistakenly did not erase that check mark when the report was finalized.^{fn224}"

The OIC's excuse does not address why Dr. Beyer would have checked "Yes" in anticipation of taking x-rays if "the equipment" had not been "working" for the last two weeks, particularly if he "saw no need to take an x-ray."

The Medical Examiner reported a gunshot wound to the neck, Paramedic Arthur was certain he saw a small caliber wound on the neck, and there is no record of any of the 26 persons who viewed Mr. Foster's body before the autopsy having seen either the official entrance or exit wounds. Because Dr. Beyer removed the evidence of the entrance wound before the police arrived, and the x-rays vanished, we have only Dr. Beyer's word on which to rely.

In another case in which Dr. Beyer performed the autopsy, he is alleged to have ruled a homicide as being a suicide. Robert Bryant, while Agent-in-Charge of the FBI's Washington Metro Field Office, supported his conclusion.³²⁶

Panel Turns To Foster Death; No New Evidence Emerges In Testimony, Wash. Post, July 30, 1994.

³²⁶ See website of Parents Against Corruption & Cover-up, <http://www.clark.net/pub/tburkett/pacc>.

The autopsy

i. No official estimate of time of death

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

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 is your definition of a critical nature?

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.

Q. Did you subsequently become aware of whether any of those factors were present in this case?

A. I made no determinations.³²⁷

The Fiske Report's brief reference to the time of death was in a footnote.

"As stated in the Pathologist Report, the available information is insufficient to determine the precise time of death during that afternoon. Pathologist Report, at paragraph 4."³²⁸

³²⁷ Exhibit 128, Deposition of Dr. James C. Beyer, July 13, 1994.

³²⁸ Exhibit 12, Fiske Report, June 30, 1994.

The autopsy

The OIC followed suit.

OIC, p. 30, fn. 66:

"Officer Morrissette's report also indicates that Dr. Beyer stated at the autopsy 'that it appeared that the victim had eaten a 'large' meal which he [Dr. Beyer] believed to have occurred within 2-3 hours prior to death.' USPP Report (Morrissette) at 1. An exact time of death has not been established."

There are indications in the record from which the time of death can be approximated. The OIC chose to omit the sentence of Officer Morrissette's report following the one it chose to quote.

"He [Dr. Beyer] was unable to state positively what type of food was consumed but stated that it might have been meat and potatoes."³²⁹

By all accounts, Mr. Foster had a cheeseburger and French-fries between 12:30 and 1:00. So, according to Dr. Beyer's approximation from the digestion of his lunch, Mr. Foster died between 2:30 and 4:00 p.m.

Paramedic George Gonzalez in his Incident Report estimated that based upon the "pooling of blood in the extremities," Mr. Foster had been dead "2-4 hrs"³³⁰ at 6:15 p.m., similarly putting the time of death between approximately 2:15 and 4:15 p.m.

³²⁹ Exhibit 127, Park Police Report by Detective James Morrissette, August 2, 1993.

³³⁰ Exhibit 133, Incident Report of Paramedic George Gonzalez, July 20, 1993.

The autopsy

j. Conflicting evidence of bullet trajectory

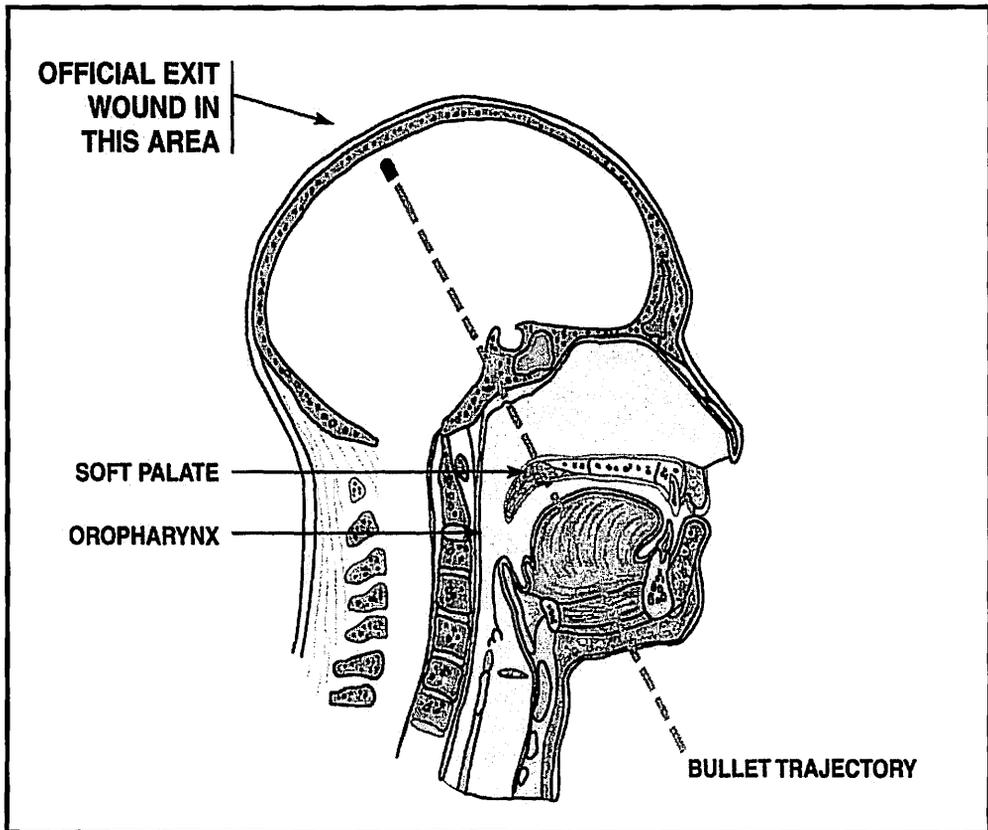
Dr. Beyer's Report of Autopsy reported a defect in the soft palate.³³¹ Fiske's pathology panel concluded, "Mr. Foster placed the barrel of the weapon into his mouth with the muzzle essentially in contact with the soft palate when he pulled the trigger."³³² Yet, Beyer's Autopsy Report claimed that the "entrance wound is in the posterior oropharynx."³³³ These accounts cannot both be true. A single bullet could not have pierced both the soft palate and the oropharynx and exited the top of the head, as the drawing below illustrates.

³³¹ Exhibit 23, Report of Autopsy, July 21, 1993.

³³² Exhibit 130, Forensic Pathology and Medical Examiner-related Findings and Conclusions pertaining to the Investigation of the Death of Vincent W. Foster, Jr., undated.

³³³ Exhibit 23, Report of Autopsy by Dr. James C. Beyer, July 21, 1993.

The autopsy

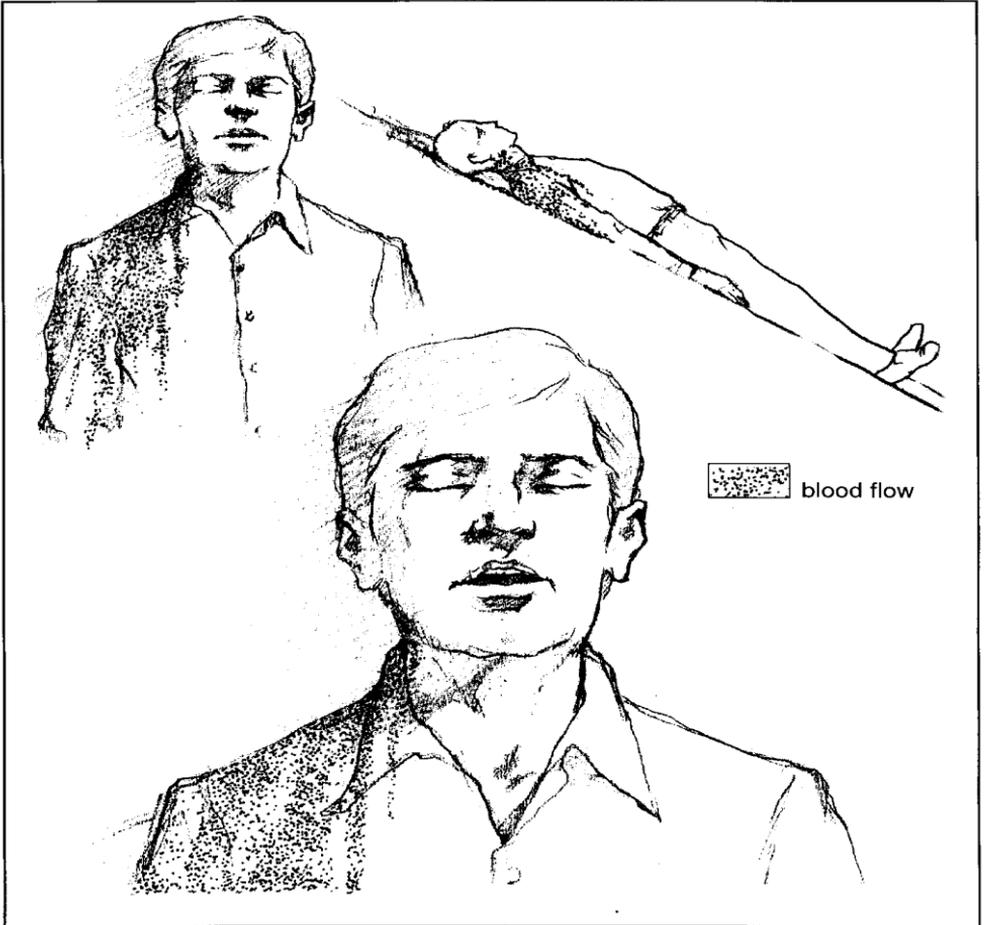


The posterior oropharynx is the back wall of the throat below the soft palate. The soft palate is the tissue that forms the aft portion of the roof of the mouth. The Report of Autopsy stated that the entrance wound was in the oropharynx. Fiske's pathologists concluded that the muzzle was placed against the soft palate. Both cannot be true. An entrance wound in the oropharynx could not have resulted in the reported official exit wound because the trajectory of an intra-oral gunshot wound entering the oropharynx would have been too low.

BULLET TRAJECTORY: Much of the evidence presented in this filing is offered to prove the trajectory shown above.

END EXCERPT

Official excuse for blood on Mr Foster's right side



Before

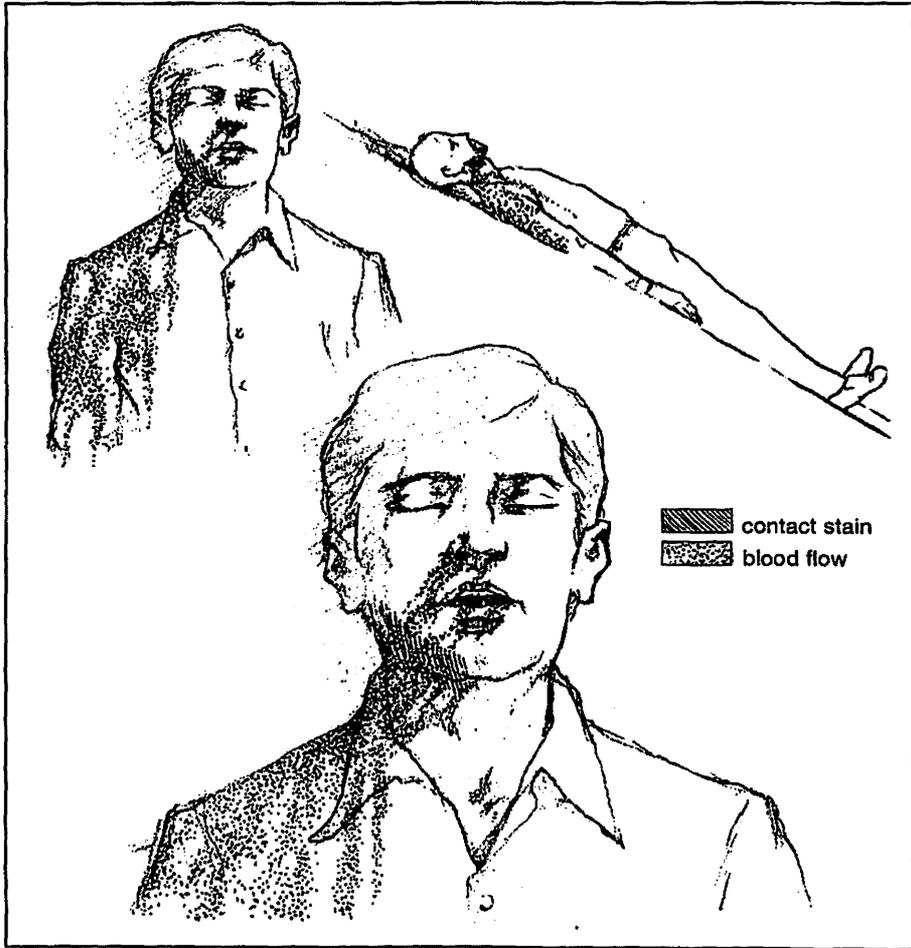
These illustrations show Mr. Foster's body as it appeared to the early observers who saw the body before Sergeant Edwards was alone at the body site. There was very little blood on Mr. Foster's face, and it all appeared dark and dry. Illustrations clockwise from the bottom: (1) this close-up view shows very little blood on the face and some inside his mouth and nose. Also shown is blood on the right collar and shoulder of the shirt. (2) This illustration shows a bird's-eye view of the dried blood soaked into the right collar, shoulder and down the sleeve. (3) This side view depicts the body lying straight, face up on an incline with the arms straight at the sides [a gun in his right hand is not shown].

Official excuse for blood on Mr Foster's right side



The movement of Mr. Foster's head

The OIC and its experts concluded that Mr. Foster's head was moved at the scene. We agree.



After

These illustrations show Mr. Foster's body as it appeared to observers who viewed the body after Sergeant Edwards was alone at the body site. There was now more blood on Mr. Foster's face, and a blood contact stain. The blood was now both dry and wet. Clockwise from the bottom, illustrations show: (1) additional wet blood on the face and shirt, some of which is flowing from the nose and mouth. A contact stain is also now on the right chin from its contact with the bloody shoulder of the shirt. (2) This bird's-eye view shows the additional blood on the face and shirt, and shows the new contact stain on the face. (3) This side view depicts the bloodstains on the right side of the shirt. It also shows the additional blood on the face and the contact stain.

Gun

VII. EVIDENCE THAT THE OIC COVERED UP THAT MR. FOSTER DID NOT FIRE OR OWN THE GUN FOUND AT THE PARK

Summary: The OIC hides that the gunshot residue patterns on Mr. Foster's hands prove that he did not fire the weapon.

The OIC conceals that Remington, the manufacturer of the Ammunition found in the gun, has never used "ball smokeless powder," the type of ammunition found on the body and clothing.

Gunpowder and blood on the eyeglasses proves he was wearing them when the shot was fired, but they could not have landed where they were found.

The OIC claims that Dr. Lee found "gunpowder like" particles in the soil at the park over a year after the death.

The OIC mentions that the FBI lab found two types of powder on Mr. Foster's clothing, but offers no explanation.

The OIC conceals that a semi-automatic handgun was in Mr. Foster's hand before the official revolver was placed in his hand.

The OIC misrepresents that Mr. Foster owned the gun found in his hand.

Gunshot residue

1. Impossibility of gunshot residue patterns on hands having been caused by self-inflicted wound

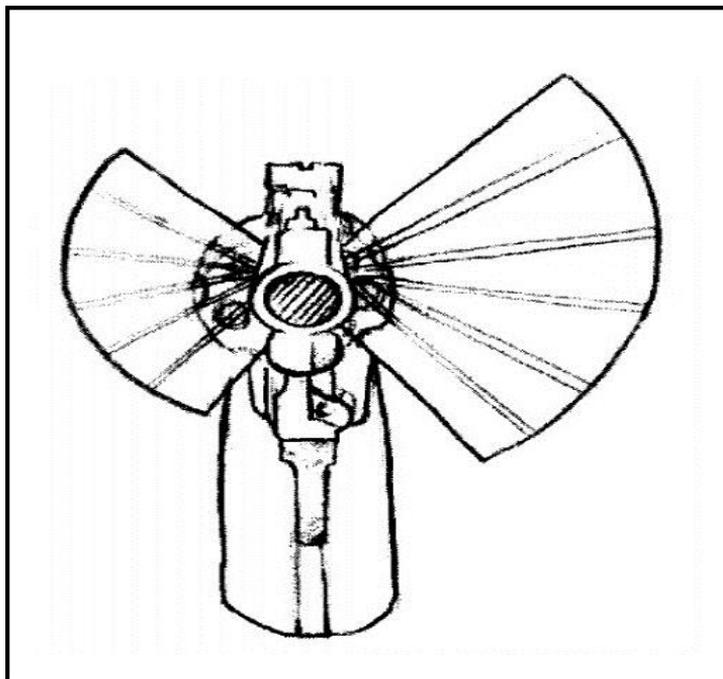
The official death weapon is a black 1913 .38 Colt Army Special six-shot revolver, with a four-inch barrel.⁴⁵¹ Its having been found with the right thumb in the trigger guard mandates a finding that if Mr. Foster had fired the gun, it would have been with his right thumb. This has been the official conclusion from day one.

A close look at this claim proves that it too is false.

When a revolver is fired and the bullet leaves the cylinder and enters the barrel, the internal pressure expels gasses, burning and unburned powder, and particulate and vaporized lead, referred to as smoke or gunshot residue (GSR). The blast results in GSR being vented through the "barrel-cylinder gap" at high speed, forming a ring perpendicular to the gun's barrel. Since the weapon's frame prevents the GSR from emanating from the top, and the crane cylinder shaft deflects it at the bottom, it is expended out at an angle and forms two triangles, one to the left of the weapon and one to the right.

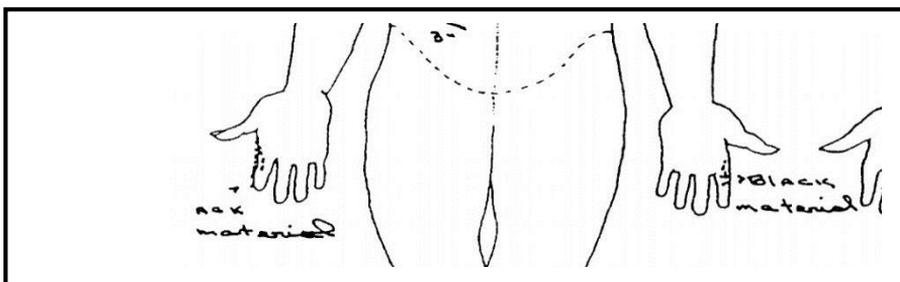
⁴⁵¹ Exhibit 142, Park Police Evidence Control Receipt, by Evidence Technician Peter Simonello, July 20, 1993.

Gunshot residue



As the GSR escapes at an angle, it separates like spokes of a wheel.

When these black soot-like escaping particles deposit themselves on a surface they strike, they form, roughly speaking, a visible line, directly in line with the barrel-cylinder gap, like the lines of deposits left on both of Mr. Foster's index fingers and the web between his right thumb and index finger. Dr. Beyer drew the GSR deposit on Mr. Foster's hands in his Autopsy Report's "body diagram."



Dr. Beyer's drawing of GSR on Mr. Foster's hands in the body diagram of the Autopsy Report

Gunshot residue

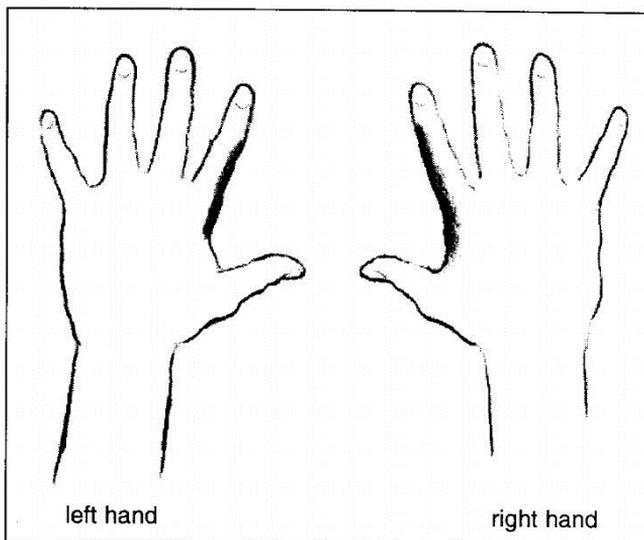
We want to approximate the length of the GSR line that Dr. Beyer drew. To do so, we first review what exists of the public record of where exactly the GSR began and ended. Simonello reported that the GSR was "between the thumb's joint (web area) and the fingertip"⁴⁵² (of the forefinger), and Fiske's pathologists' similarly reported that it "extended from the distal joint to the web area of the thumb."⁴⁵³ It began at the first joint of the forefinger, and extended down into the web area. Since the proportions of everyone's hands are about the same, if we can approximate the length of Mr. Foster's hands from the tip of the forefinger down into the web area, we can approximate the length of line of GSR.

Because Mr. Foster, who was 6'4" inches tall, could hold a basketball palm-down with one hand, the length of his right index finger approached six inches in length from the top of his fingertip to the web area, and the third (last) phalange of his index finger was around an inch long, the length of the gunshot residue deposit was over five inches long.

⁴⁵² Exhibit 134, Park Police Report Supplement by Evidence Technician Peter Simonello, July 26, 1993.

⁴⁵³ Exhibit 130, Forensic Pathology and Medical Examiner-related findings and Conclusions pertaining to the Investigation of the Death of Vincent Foster, Jr., undated.

Gunshot residue



Drawing of GSR on Mr. Foster's hands

Because we know the approximate length of the GSR, let's have a closer look at those two triangles. (Remember that since the weapon's frame prevents the GSR from emanating from the top and bottom of the weapon, it is expended out at an angle and forms two triangles, one to the left of the weapon and one to the right.) By looking at a replica of the official death weapon, we know the approximate angle at which the "spokes of a wheel" emanate from the weapon. If you know the angle, or degrees, of one corner of a triangle, and you know that the two sides which emanate from this corner meet the third side of the triangle, and you know the length of that third side of the triangle, you can figure out the length of the other two sides.

Now, to see where Mr. Foster's hands were in relation to the weapon when it was fired, we need only put the triangles where they go. The GSR lines on Mr. Foster's hands are the third side of the triangle. We know the position of his hands when the gun was fired.

The closer his hands were to the cylinder, the shorter the length of the GSR deposit. The minimum distance that Mr. Foster's right hand could have been from the center of the barrel when cylinder blast occurred, using the five-inch arc, is calculated as over two inches away, perpendicular from the barrel.

Gunshot residue

This exercise is telling. When the shot was fired, the web between his right thumb and index finger, and both of his index fingers, were in the gunshot residue trajectory of the cylinder-blast from the cylinder-barrel gap -- and that puts the right thumb too far away from the trigger to have pulled it. It would have been impossible for Mr. Foster's right thumb to reach the trigger at the same time as his right thumb-index finger web was in the trajectory of the GSR from the cylinder-blast.

Contrary to the official version, he did not pull the trigger of the official death weapon with his right thumb. The only possible way to have gunshot residue deposited on the right index finger and web area and left index finger, a sufficient distance from the barrel-cylinder gap to provide the five-inch length of the residue pattern, is if the weapon was fired by the hand of another. The residue patterns were made when Mr. Foster held his hands with the palms facing the revolver's cylinder, consistent with his hands being in a defensive posture.

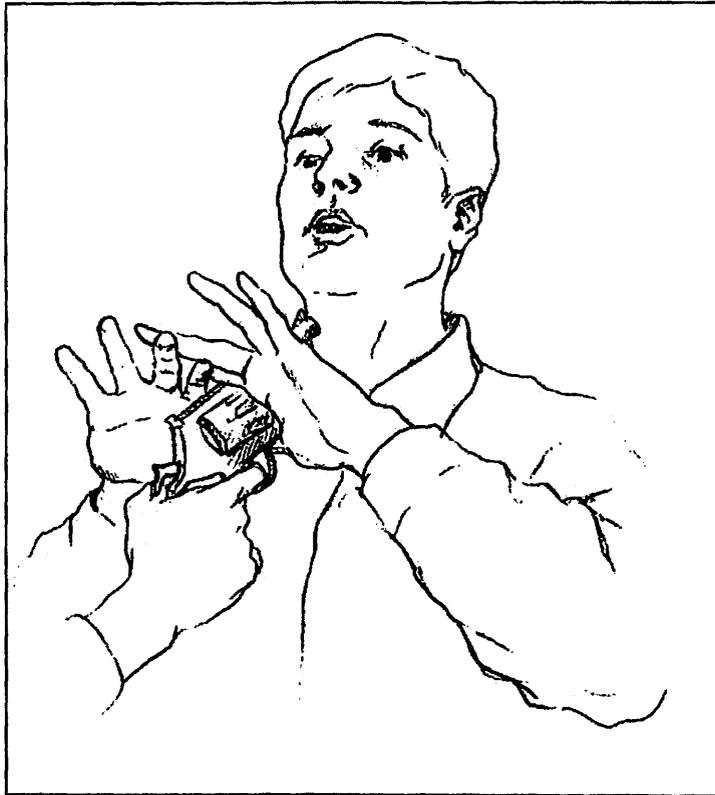
Although the FBI Lab had earlier concluded that "it cannot be concluded that the... revolver produced these gunshot residues,"⁴⁵⁴ its May 9, 1994 Report reached the opposite conclusion.

Apparent gunshot residue (smoke) was noted... on the side of the right forefinger and web area of the victim's right hand. These residues are consistent with the disposition of smoke from the... cylinder blast when the K1 revolver is fired... The position of the victims [sic] hand... is consistent with, but not limited to, the following position of the right hand during firing: Pulling the trigger of the K1 revolver with the right thumb...⁴⁵⁵

⁴⁵⁴ Exhibit 27, FBI Lab Report, June 13, 1994: "It cannot be concluded that the K1 revolver produced these gunshot residues..."

⁴⁵⁵ Exhibit 95, FBI Lab Report, May 9, 1994:

Apparent gunshot residue (smoke) was noted in the Q60, Q112, Q125, Q126, photographs on the side of the right forefinger and web area of the victim's right hand. These residues are consistent with the disposition of



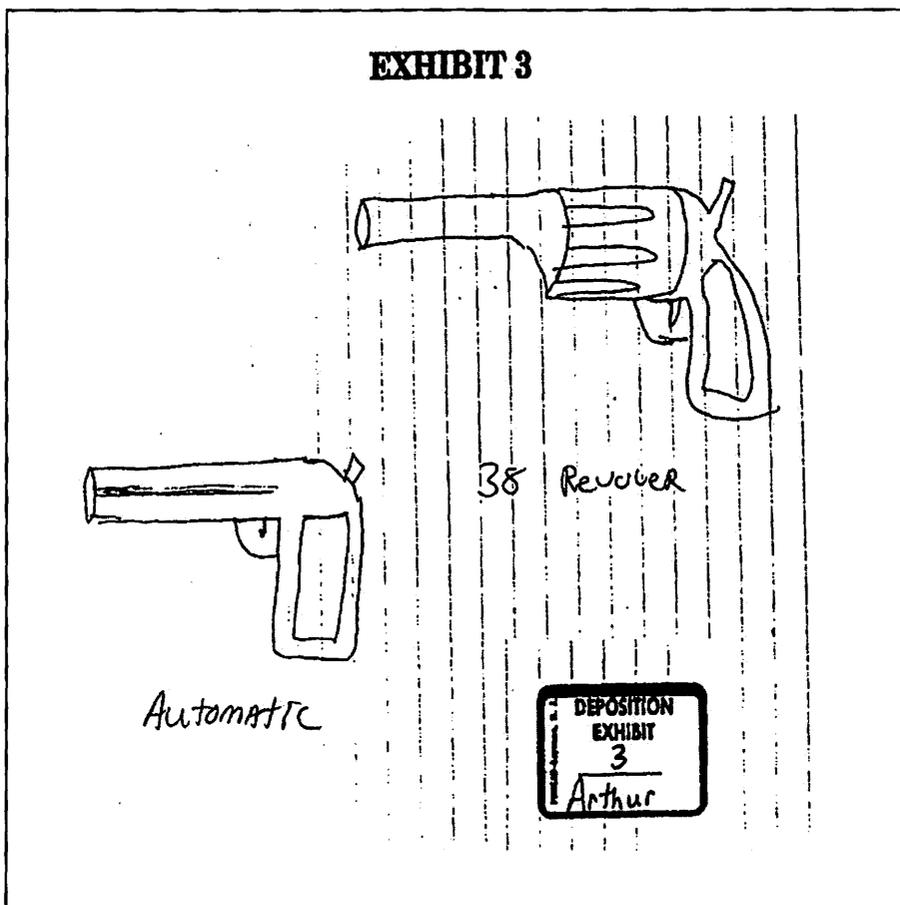
Mr. Foster held his hands with the palms facing the revolver's cylinder—consistent with his hands being in a defensive posture

smoke from the muzzle blast or cylinder blast when the K1 revolver is fired using ammunition like that represented by specimens Q1 and Q2 when this area of the right hand is positioned near the front of the cylinder or to the side of and near the muzzle.

* * *

The position of the victims [sic] hand in the Q77, Q79 and Q97 photographs relative to the revolver and the apparent disposition [sic] of gunshot residue (smoke) visible in the Q60, Q112, Q125, Q126 and Q127 photographs is consistent with, but not limited to, the following position of the right hand during firing: Pulling the trigger of the K1 revolver with the right thumb, single or double action, or having the right thumb inside the trigger guard with the web area and side of the right forefinger near the front of the cylinder.

END EXCERPT



Paramedic Richard Arthur's drawing of the semi-automatic pistol that he saw in Mr. Foster's hand, and of a revolver to demonstrate that he knew the difference between the two types of guns.

Thus, according to the FBI's fourth interview with Arthur, he admitted that he "*must have been mistaken*" when he was "100% sure" years earlier that the gun which he saw from "2 to 3 feet away," and later drew a picture of, was not a revolver.

By referring to the semi-automatic and the revolver as "the" gun, the OIC does not confront the existence of the semi-automatic.

END EXCERPT

Ownership of gun

US PARK POLICE REPORT. GUN FOUND IN MR. FOSTER'S HAND WAS BLACK.

UNITED STATES PARK POLICE MOBILE CRIME LAB REPORT SUPPLEMENT	
OFFENSE/INCIDENT: Search Investigation	CASE NO. 30502-01
INCIDENT LOCATION: Ft. Marcy	DATE: 7-20-93
were at his sides and the victim had his right hand on a black revolver. The right thumb	
ID TECHNICIAN: [Signature] Governor Almeida 7-26-93	DATE: [Signature] SUPERVISOR: [Signature] DATE: 7/24/93

PHOTOGRAPHS OF BLACK GUN FOUND IN MR. FOSTER'S HAND AT FORT MARCY PARK.



US PARK POLICE HANDWRITTEN INTERVIEW NOTES. MRS. FOSTER UNABLE TO IDENTIFY BLACK GUN.

<i>Note the gun she thought it must be. Silver, six gun, large barrel.</i>	Not the gun she thought it must be. Silver, six- gun, large barrel.	EXHIBIT 3
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FBI INTERVIEW REPORT. FBI SHOWED MRS. FOSTER "SILVER" GUN "FOUND" AT FMP. SHE IDENTIFIED IT.

Continuation of FD-302 of ELIZABETH BRADEN FOSTER, On 5/9/94, Page 14
LISA FOSTER then examined a revolver which had been brought to the interview by the interviewing agents. FOSTER examined the revolver, which had also been found at Fort Marcy Park on July 20, 1993, and stated that she believed it may be a gun which she formerly saw in her residence in Little Rock, Arkansas.
may be the silver gun which she brought up with her other belongings when she permanently moved to Washington. LISA FOSTER

Exhibit 3 of Appendix to the OIC's Report on the Death of Vincent Foster, Jr., submitted September 23, 1997, released to the public on October 10, 1997

END EXCERPT

The absence of the car at the park

VIII. EVIDENCE CONTRADICTING THE OFFICIAL CLAIM THAT MR. FOSTER DROVE TO THE PARK

Summary. Mr. Foster was dead by 4:20 p.m. The OIC conceals that at 4:20 p.m. Mr. Foster's Arkansas Honda was not in the Fort Marcy Park parking lot. The OIC's claim that "only [two] cars... were known to law enforcement and the OIC" is false. Civilian witnesses saw the older brown Arkansas Honda, not Mr. Foster's 1989 silver Honda.

Patrick Knowlton saw the mid-1980s brown Arkansas Honda in the same spot as Mr. Foster's 1989 silver Honda car was later found, and a man acting suspiciously in a car backed in three spots from the Arkansas car. Patrick suffered witness tampering.

Summary of car keys not at the park: The OIC conceals that Mr. Foster's car keys were not at Fort Marcy Park by falsely reporting (1) that Rolla had "simply missed" the keys when he "patted" the pockets at the park, (2) that Kennedy and Livingstone could not have later placed the keys in the pocket because they visited the morgue after police had retrieved the keys, and (3) that Kennedy and Livingstone were not allowed in the same room as the body.

The OIC's claim that Rolla had "simply missed" two sets of keys when he "patted" Mr. Foster's pockets at the park is contradicted by the accounts of Rolla and at least two other Park Police. The OIC falsely claims that Kennedy and Livingstone could not later have placed the keys in the pocket because they visited the morgue after Braun had retrieved the keys at the morgue. The OIC's chronology is contradicted by the accounts of Park Police, Secret Service, Kennedy, Livingstone, and other White House personnel. The OIC relies on falsified or nonexistent hospital logs and failed to obtain records that would prove whether Kennedy and Livingstone visited the morgue before Rolla and Braun.

The absence of the car at the park, at time of death

a. Mr. Foster was dead before 4:20 p.m.

As discussed above, Dr. Beyer testified that he was unconcerned with the time of death. The OIC's Report only briefly mentions time of death in a footnote, wherein it gives a clue by including the reported account that Dr. Beyer said, "*that it appeared that the victim had eaten a 'large' meal which he believed to have occurred within 2-3 hours prior to death.*"⁵²⁵ Because Dr. Beyer also reportedly said the meal "might have been meat and potatoes,"⁵²⁶ and because by all accounts, Mr. Foster had a cheeseburger and French-fries between 12:30 and 1:00, according to Dr. Beyer's approximation from the digestion of his lunch, Mr. Foster died between 2:30 and 4:00 p.m. Paramedic George Gonzalez in his Incident Report estimated that based upon the "pooling of blood in the extremities," Mr. Foster had been dead "2-4 hrs"⁵²⁷ at 6:15 p.m., similarly putting the time of death between approximately 2:15 and 4:15 p.m..

b. Patrick Knowlton and the absence of Mr. Foster's car at the park at 4:30

The Special Division of the United States Court of Appeals for the District of Columbia Circuit ordered the OIC to include Patrick Knowlton's submission to its Appendix to its Report on Mr. Foster's death. We saw

James Iacone, March 11, 1994: "Iacone had observed three or four automobiles in the lot. Among the vehicles, Iacone noted a Honda Accord which was either red or maroon in color and which displayed Arkansas registration plates." Exhibit 72, Report of FBI interview of Firefighter Jennifer Wacha, March 11, 1994: "[I]n the parking area... the engine was running... also a third car in the lot."

⁵²⁵ OIC, p. 30, fn. 66: Officer Morrissette's report also indicates that Dr. Beyer stated at the autopsy 'that it appeared that the victim had eaten a 'large' meal which he believed to have occurred within 2-3 hours prior to death.' USPP Report (Morrissette) at 1. An exact time of death has not been established.

⁵²⁶ Exhibit 127, Park Police Report by Detective James Morrissette, August 2, 1993.

⁵²⁷ Exhibit 133, Incident Report by Paramedic George Gonzalez, July 20, 1993.

Patrick Knowlton & witness tampering

<h1 style="margin: 0;">United States District Court</h1>									
FOR THE DISTRICT OF COLUMBIA									
TO: PATRICK KNOWLTON									
<h2 style="margin: 0;">SUBPOENA TO TESTIFY BEFORE GRAND JURY</h2>									
SUBPOENA FOR: <input checked="" type="checkbox"/> PERSON <input type="checkbox"/> DOCUMENT(S) OR OBJECT(S)									
YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.									
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">PLACE</td> <td style="padding: 2px;">COURTROOM</td> </tr> <tr> <td style="padding: 2px;">United States District Court for the District of Columbia Third & Constitution Avenue, N.W. Washington, D.C.</td> <td style="padding: 2px;">Grand Jury, Third Floor</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">DATE AND TIME</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">November 1, 1995/12:00 Noon</td> </tr> </table>	PLACE	COURTROOM	United States District Court for the District of Columbia Third & Constitution Avenue, N.W. Washington, D.C.	Grand Jury, Third Floor		DATE AND TIME		November 1, 1995/12:00 Noon	
PLACE	COURTROOM								
United States District Court for the District of Columbia Third & Constitution Avenue, N.W. Washington, D.C.	Grand Jury, Third Floor								
	DATE AND TIME								
	November 1, 1995/12:00 Noon								
YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*									
<p><input type="checkbox"/> Please see additional information on reverse.</p> <p>This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.</p>									
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">U.S. MAGISTRATE</td> <td style="padding: 2px;">DATE</td> </tr> <tr> <td style="padding: 2px;">Nancy M. [Signature] (an) DEPUTY CLERK</td> <td style="padding: 2px;">October 24, 1995</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">(D331) (FD)</td> </tr> </table>	U.S. MAGISTRATE	DATE	Nancy M. [Signature] (an) DEPUTY CLERK	October 24, 1995		(D331) (FD)			
U.S. MAGISTRATE	DATE								
Nancy M. [Signature] (an) DEPUTY CLERK	October 24, 1995								
	(D331) (FD)								
This subpoena is issued under the authority of the United States District Court for the District of Columbia.	NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY John D. Bates, Deputy Independent Counsel Office of the Independent Counsel 1001 Pennsylvania Avenue, N.W., Suite 490 North Washington, D.C. 20004								

Front of Subpoena for Patrick Knowlton to testify before the Whitewater Grand Jury. Prepared October 24, 1995, served October 26, 1995.

Patrick Knowlton & witness tampering

GD 250 (Rev. 8/91) Subpoena to Testify Before Grand Jury

RETURN OF SERVICE (1)

RECEIVED BY SERVER	DATE	PLACE
SERVED	DATE	PLACE
	10-26-95	2424 Pennsylvania Ave NW Apt. 910

SERVED ON (PRINT NAME)

Patrick James Knowlton

SERVED BY (PRINT NAME) _____ **TITLE** _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER(2)

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 10/26/95 Russell J. Bradford
Date Signature of Server

O.I.C., 1001 PENNSYLVANIA AVE., N.W., SUITE 490
WASHINGTON, D.C. (202) 307-0443
Address of Server

ADDITIONAL INFORMATION

BRETT M. KAVANAUGH (ASSOCIATE COUNSEL)
 (202) 514-8688

(1) As to who may serve a subpoena and the manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.
 (2) "Fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 49(d), Federal Rules of Civil Procedure; Rule 17(e), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1825, Rule 17(f) Federal Rules of Criminal Procedure)."

Back of Patrick Knowlton's Whitewater Grand Jury subpoena.

SECTION II

HARASSMENT

**Thursday evening and Friday early afternoon,
October 26 & 27, 1995:**

At around 7:20 p.m., Knowlton and his girlfriend, Kathy, walked from his home in the Foggy Bottom neighborhood to Dupont Circle, and back to Bertucci's Restaurant in Foggy Bottom. Although pedestrian traffic was light, he was continuously followed and repeatedly harassed. During the time Knowlton spent in public that evening, eleven or more men walked towards him, or came from behind, and gave him purposeful, intimidating, timed stares. The men followed him on the street, into a drug store, and into a restaurant. He was also trailed by car.

In her sworn affidavit, Kathy stated that she "has never witnessed anything like this before or since. It was intentional, coordinated, intimidating, and extremely unnerving." Kathy holds a Ph.D. in Organizational Development, and is employed as a consultant and educator.

At Kathy's suggestion and with her help, Knowlton wrote down and tape recorded the details of the harassment shortly after each occurrence. On Thursday, October 26, the descriptions of the men who harassed Knowlton were hand written within 90 minutes of their being observed. Tapes of what occurred were recorded later that afternoon, and again that evening.

The activities of the men who harassed Knowlton, as well as the descriptions of these men, are reported in great detail. The authors retained the services of a psychiatrist and psychologist to prove that Knowlton has a superior

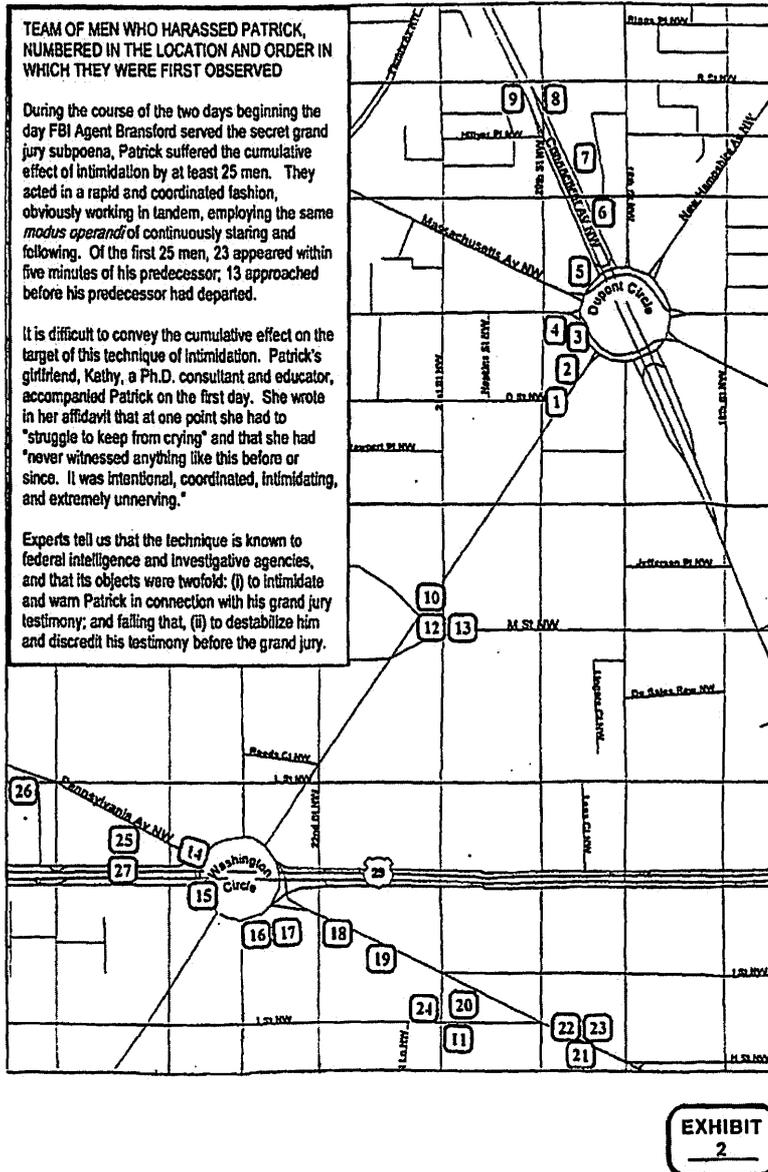


Exhibit 2 of Appendix to the OIC's Report on the Death of Vincent Foster, Jr., submitted September 23, 1997, released to the public on October 10, 1997.

Inferences

X. INFERENCE 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.

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.

Inferences

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 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

Inferences

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 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.

Inferences

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 included confirmation of the fact that there was "no exit wound"?⁶¹⁹

⁶¹⁹ 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

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 it 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

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 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

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 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

Inferences

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.

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.

Inferences

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 you 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.

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.

Inferences

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...⁶²⁰

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 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.

⁶²⁰ Exhibit 17, Testimony of FBI agents Lawrence Monroe and William Colombell, July 29, 1994.

Inferences

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

Inferences

turned. Edwards' actions may have also camouflaged the existence of the neck wound by spilling blood over that wound.

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 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

Inferences

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.

The Guns. The gun presents three issues. First, 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.

Inferences

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 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.

Inferences

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 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 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

Inferences

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 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

Inferences

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 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.

Inferences

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 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.

Inferences

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
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
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"
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 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.

END EXCERPT

Investigative history

psychologist's official expert opinion.⁶³⁸

XI. INVESTIGATIVE HISTORY

Because the initial investigation was in fact conducted jointly by the Park Police and the FBI, both agencies bear responsibility for almost all of the deficiencies that occurred during that seventeen-day period. Basic investigative procedures were ignored, both at the scene⁶³⁹ and thereafter.⁶⁴⁰ Significantly, the death was not investigated as homicide until foul play could be ruled out, the fundamental tenet of any death investigation.

1. The FBI and the first 17-day probe

When more than one agency works the same case, one agency may assume the responsibility for the investigation. This assumption

Von Drehle reported that Mr. Foster "felt powerless to turn things around." Dr. Blatt opined that he had "feelings of failure, anxiety, anger, helplessness." The OIC followed suit. Both Von Drehle and Dr. Blatt describe Mr. Foster as overwhelmed by feelings of unworthiness, failure, guilt, and disapproving self-criticism. Frank Rich compared Mr. Foster to Roger D. Hansen in Calvin Trillin's book, Remembering Denny. So did Dr. Blatt, calling Mr. Foster and Mr. Hansen perfectionists. Dr. Berman too concluded that Mr. Foster was a perfectionist.

⁶³⁸ See H. Fineman & B. Cohen, *The Mystery of the White House Suicide*, Newsweek Magazine, August 2, 1993: The park Police and the Justice Department now insist that they want to know not just the "if" of suicide, but the "why" as well. If they really want to know the reason why, said Edwin Schneidman, professor emeritus of thanatology at the University of California, Los Angeles, they will have to perform what he calls a "psychological autopsy"...

⁶³⁹ For example, there was no effort made to determine the time of death, the crime scene was not secured, all persons known to have been at the park, as well as at the body site, were not interviewed, and there was no canvas of the neighborhood.

⁶⁴⁰ For example, the firearm was not tested for operability, Mr. Foster's handwriting was authenticated without the benefit of a certified document examiner, the police did not attend the entire autopsy, there was no effort made to determine if Mr. Foster left the White House grounds alive, and a number of persons with whom Mr. Foster spent his final 72 hours have never been interviewed.

Investigative history

of the role as the lead investigative agency is called assuming primary jurisdiction.

Initially, the FBI admitted that a federal statute⁶⁴¹ required it to exercise primary jurisdiction over the case. Next, the Fiske Report declared that the FBI did not need to determine whether the statute covered Mr. Foster's death. The third version, provided in the OIC's Report, is that the statute did not mandate that the FBI investigate Mr. Foster's death.

At a August 10, 1993 press conference, given to announce the results of the joint FBI/Park Police investigation, Robert Bryant, then Special Agent-in-Charge of the FBI's Washington Metropolitan Field Office, explained why the FBI investigated.

"[T]here is a death of a high government official that's covered by the assault or assassination statute..."⁶⁴²

FBI Agent John Danna was one of the FBI agents who initially investigated the death. Agent Danna knew the statutory basis for the FBI's participation, as he later told the Senate investigators probing the removal of documents from Mr. Foster's office.

"It was that violation... the potential violation involving a presidential staff member... Title 18, section 1751."⁶⁴³

* * *

"[T]he only basis we have on our squad is the 175[1] classification, which is a Presidential staff member

⁶⁴¹ 18 U.S.C. § 1751, *Presidential and Presidential staff assassination*.

⁶⁴² Exhibit 162, Transcript of August 10, 1993 press conference with Deputy Attorney General Philip B. Heymann, Chief of U.S. Park Police Robert Langston, Special Agent-in-Charge of the FBI's Washington Metropolitan Field Office Robert Bryant.

⁶⁴³ Exhibit 85, Deposition of FBI Agent John K. Danna, June 28, 1995.

Investigative history

investigation... we have to have a reason to do investigations, and the only reason we had is, again for a Presidential thing."⁶⁴⁴

At the August 10, 1993 press conference, then FBI Special-Agent-in-Charge Bryant explained that the FBI ruled the death a suicide.

"We [FBI] followed this case from the time we were notified until we were basically of the opinion, along with Chief Langston's staff, that this was a suicide."⁶⁴⁵

A year after Mr. Foster's death, on June 30, 1994, just over five months after Mr. Fiske's appointment, the *Report of the Independent Counsel In Re Vincent W. Foster, Jr.* ("Fiske Report") was released. The second page of the Fiske Report unabashedly explained that the FBI in fact conducted the probe.

The Federal Bureau of Investigation ("FBI") provided substantial and invaluable support in this investigation. The FBI assigned seven experienced agents to the Independent Counsel's Washington office, all of whom have worked exclusively with this office for approximately the last four months. Assistance was also provided by representatives of the FBI's National Center for the Analysis of Violent Crime. In addition, experts in the FBI Laboratory performed a thorough analysis of the available evidence.⁶⁴⁶

⁶⁴⁴ Exhibit 85, Deposition of FBI Agent John K. Danna, June 28, 1995.

⁶⁴⁵ Exhibit 162, Transcript of August 10, 1993 press conference with Philip B. Heymann, Deputy Attorney General, Robert Langston, Chief, U.S. Park Police, Robert Bryant, Special Agent-in-Charge of the Washington Metropolitan Field Office, FBI.

⁶⁴⁶ Exhibit 12, Fiske Report, June 30, 1994.

Investigative history

Under its section entitled *Summary of Conclusions*, the Fiske Report declared that there was "no evidence" to contradict the official version of events.

On the afternoon of July 20, 1993, in Fort Marcy Park, Fairfax County, Virginia, Vincent W. Foster, Jr. committed suicide by firing a bullet from a .38 caliber revolver into his mouth. As discussed below, the evidence overwhelmingly supports this conclusion, and there is no evidence to the contrary.⁶⁴⁷

The Fiske Report explained that "the FBI did not determine whether Foster was covered by this statute." It need not make this determination, it reasoned, "because the preliminary investigation by the FBI provided no indication of criminal activity."⁶⁴⁸ Under this analysis, the case was so obviously open-and-shut that there was no need for an investigation.

The third version, that the federal statutes were inapplicable to the investigation into Mr. Foster's death, is provided by the OIC.

⁶⁴⁷ Exhibit 12, Fiske Report, June 30, 1994.

⁶⁴⁸ Exhibit 12, Fiske Report, June 30, 1994: The FBI would have had primary investigative jurisdiction if the circumstances fell within the Presidential and Presidential Staff Assassination statute, Title 18, United States Code, Section 1751. That statute makes it a federal crime to, among other things, kill the President, Vice-President, or a specified number of persons appointed by the President or Vice-President. The statute further provides that violations shall be investigated by the FBI.* Based on a preliminary inquiry by the FBI which failed to indicate any criminal activity, the FBI's inquiry into this matter was closed... *18 U.S.C. Section 1751 covers "any person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President... Title 3, United States Code, Section 105(a)(2)(A) provides that the President may appoint twenty-five employees at a specified rate of pay. Because the preliminary investigation by the FBI provided no indication of criminal activity, the FBI did not determine whether Foster was covered by this statute.

Investigative history

OIC, p. 4, fn. 4:

See 16 U.S.C. § 1a-6(b). The FBI has mandatory jurisdiction to investigate the murders of certain high-ranking individuals employed at the White House -- those appointed under Section 105 (a)(2)(A) of title 3 employed in the Executive Office of the President. See 18 U.S.C. § 1751 (a) (defining persons covered by statute). Mr. Foster was appointed under Section 105 (a)(2)(B) and thus was not an official covered by Section 1751. OIC Doc. No. DC-210-5151.

The Statute to which the OIC refers fixes the salaries of fifty executive branch employees. Twenty-five, appointed under 105 (a)(2)(A), were paid salaries of \$133,600. The other twenty-five, appointed under 105 (a)(2)(B), were paid \$123,100 per year.⁶⁴⁹ The *Presidential and Presidential staff assassination* statute mandates that the FBI investigate assaults and assassinations of those top twenty-five employees appointed pursuant to 105 (a)(2)(A), paid \$133,600.⁶⁵⁰ According to the OIC, Mr. Foster's position of deputy White House counsel was in the bottom half of these fifty employees,⁶⁵¹ yet it offers no proof of its position.

Thus, there are three distinct official versions of whether the statute mandated that the FBI exercise primary jurisdiction over the investigation into Mr. Foster's death. But no matter which of the three versions is true (that the death was covered, that it was not, or that

⁶⁴⁹ Section 105(a)(2), subparagraph (A) of Title 3 provides that "the President may appoint... 25 employees at rates... paid for level II of the Executive Schedule of section 5314 of Title 5...", whereas subparagraph (B) provides that "the President may appoint... 25 employees at rates not to exceed the rate... paid for level III... of section 5314..." Under the 1993 version of section 5314 of Title 5, level II employees were paid \$133,600 annually and level III employees were paid \$123,100.

⁶⁵⁰ Section 1751 of Title 18 of the United States Code, *Presidential and Presidential staff assassination... and assault...*, covers "any person appointed under Section 105(a)(2)(A) of Title 3 employed in the Executive Office of the President..."

⁶⁵¹ Mr. Foster's salary is not public information.

Investigative history

coverage was undetermined), the FBI had a vested interest in a finding of no criminal activity. The FBI did in fact initially investigate along with the Park Police, at which time it ruled that the death was a suicide.⁶⁵² Therefore, the FBI had an interest in a finding of no criminal activity in both of its subsequent investigations. Moreover, if Mr. Foster's death were not a suicide, the FBI would have violated the *Presidential and Presidential staff assassination* statute by not exercising primary jurisdiction as it requires -- another reason why the FBI has had a vested interest in a finding of no criminal activity.

The OIC concealed the breadth of the FBI's role in the initial seventeen-day death investigation, conducted jointly with the US Park Police from July 20, 1993 through August 5, 1993. The OIC's Report merely states that the FBI "*assisted the Park Police in certain aspects*" of the case, and that the FBI opened a "*separate*" investigation regarding the discovery of the alleged suicide note. There is no discussion as to why the investigation of the note was separate and apart from the investigation into the death of its author.⁶⁵³ The OIC's

⁶⁵² Compare M. Isikoff, *Park Police to Conduct Inquiry 'Routine' Probe Set On Foster's Death*, *Wash. Post*, July 27, 1993: The Justice Department yesterday backed off its pledge to conduct a full investigation into the death of White House senior aide Vincent Foster Jr., saying it was merely participating in a low-level "inquiry" that was being run by the U.S. Park Police. "There is no investigation being conducted by the Justice Department," chief department spokesman Carl Stern said. Because Park Police officials are convinced that Foster took his own life, the department had no authority to launch such a probe, Stern said. "There's no suspicion that a crime occurred," he said. At the same time, a Park Police official minimized that agency's inquiry, calling it a "routine" probe that was primarily aimed at assuring investigators there was a general explanation, such as depression, for Foster to have killed himself... *** Stern's comments yesterday appear to conflict with statements made by White House and Justice Department officials... *** Stern sought to minimize the apparent conflict yesterday, suggesting that some of it may result from a semantical confusion over the difference between an inquiry and "an investigation" that is launched to solve a crime... *** [A]n FBI official said yesterday the bureau was merely "monitoring" the inquiry but not actively participating.

⁶⁵³ OIC. p. 4: The FBI assisted the Park Police in certain aspects of the ensuing death investigation, as did other federal and Virginia agencies. Moreover, the FBI, at the direction of the Department of Justice, opened a separate investigation of possible

Investigative history

version of the "*primary issues that have been raised*" about the case, which it sets out on page ten of its Report to define the parameters of its ensuing 104 pages, does not include the FBI's role in any investigation.⁶⁵⁴

The public has been told that only the US Park Police investigated from the time of the discovery of Mr. Foster's body, until the case was officially closed (the first time) sixteen days later. But publicly available federal government records demonstrate that throughout the 17-day Park Police investigation, FBI participation was considerable. This FBI participation is variously described as "investigated," "conducted interviews," "followed," "working on," "assisting" and "working leads."

obstruction of justice after a note was found on Monday, July 26, 1993, in Mr. Foster's briefcase at the White House. On August 10, 1993, the Department of Justice, FBI, and Park Police jointly announced the result of the death and note investigations.

OIC, p. 2: "Two law enforcement investigations -- the initial United States Park Police investigation... concluded that Mr. Foster committed suicide by gunshot at Fort Marcy Park." OIC, p. 4: "Because Mr. Foster's body was found in Fort Marcy Park, a park maintained by the National Park Service, the United States Park Police conducted the investigation of his death."^{fn4}

See FBI Probes Handling of Foster Note, Wash. Post, July 31, 1993: The [FBI] agents were brought in to determine why 30 hours elapsed before it was turned over to U.S. Park Police investigating Foster's apparent suicide on July 20. *** Justice Department spokesman Carl Stern said that Deputy Attorney General Philip B. Heymann requested that the FBI conduct the interviews on the handling of the note as part of an upcoming Park Police report on Foster's death. The idea was to have a "clearly disinterested party" review the matter.

⁶⁵⁴ OIC, p. 9-10: The primary issues that have been raised regarding the cause and manner of Mr. Foster's death can be grouped into several broadly defined categories: (1) forensic issues; (2) apparent differences in statements of private witnesses, Park Police personnel, and Fairfax County Fire and Rescue Department (FCFRD) personnel regarding their activities and observations at Fort Marcy Park on July 20; (3) physical evidence (such as the fatal bullet) that could not be recovered; and (4) the conduct of the Park Police investigation and the autopsy.^{fn15}

Investigative history

On the evening of the discovery of Mr. Foster's body, the FBI arranged to send FBI Agents Scott Salter and Dennis Condon to the White House to investigate the death.⁶⁵⁵ They were dispatched to the White House the following morning, as Agent Salter testified.

"[FBI Agent] John Danna called us in my car [on July 21] and told us to go to the southwest gate of the White House and meet him there and that we were to, that we were going to be working on a death investigation involving Mr. Foster's death."⁶⁵⁶

At his June 30, 1995 deposition, when handed a memorandum and asked to identify it, Agent Salter said, "[I]t's basically a summary of events from the 21st through the conclusion of, through August 4th or 6th or whatever it was, through the conclusion of the investigation that we did."⁶⁵⁷ Park Police Captain Charles Hume signed Park Police "Synopsis/Conclusion" of the investigation on August 5, 1993.⁶⁵⁸

Salter explained that the FBI's function was to interview witnesses along with the U.S. Park Police: "We were there to assist them in conducting the investigation which meant interviewing co-workers... [and] then proceed as the investigation, you know, called for."⁶⁵⁹

⁶⁵⁵ Exhibit 84, Deposition of Secret Service Agent Dennis S. Martin, June 22, 1995: Q. On the evening of the 20th, Mr. Imbordino told you to meet [FBI] investigators the next morning? A. He said I would help facilitate getting the investigators in, yes... before 9:00 a.m... I had been told the night before they would be going up to Mr. Nussbaum's office to talk about Mr. Foster's death.

⁶⁵⁶ Exhibit 65, Deposition of FBI Agent Scott Salter, June 30, 1995.

⁶⁵⁷ Exhibit 65, Deposition of FBI Agent Scott Salter, June 30, 1995.

⁶⁵⁸ Exhibit 159, Park Police Report, signed by Park Police Captain Charles Hume, August 5, 1993.

⁶⁵⁹ Exhibit 65, Deposition of FBI Agent Scott Salter, June 30, 1995.

Investigative history

Department of Interior Chief of Staff Thomas Collier testified on deposition on June 23, 1995 that "the FBI and the Park Police ended up working on this kind of hand in glove."⁶⁶⁰ US Secret Service Agent Paul Imbordino, in response to the question at his June 22, 1995 deposition "Who conducted the interviews?" answered "Park Police and FBI."⁶⁶¹ Other FBI agents who conducted interviews during the initial investigation into Mr. Foster's death included Charles K. Dorsey⁶⁶² and Bradley J. Garrett.⁶⁶³

During his July 30, 1994, deposition, US Park Police Major Robert Hines testified that the FBI dominated much of the investigation.

- Q. Did there come a time when you determined that [the] Department of Justice was really in charge of this investigation?"
- A. There came a time when I determined that they were calling a lot of shots, setting up a lot of protocols... [and that this became evident] on the evening of July 22."⁶⁶⁴

During the course of the initial investigation, FBI agents interviewed over two dozen people regarding events leading up to and

⁶⁶⁰ Exhibit 163, Deposition of Department of Interior Chief of Staff Thomas Collier, June 23, 1995.

⁶⁶¹ Exhibit 164, Deposition of Secret Service Agent Paul Imbordino, June 22, 1995 deposition.

⁶⁶² Exhibit 165, Report of FBI interview of Chief of Staff for the First Lady Margaret Williams, August 3, 1993.

⁶⁶³ Exhibit 183, Report of FBI interview of Director of White House Personnel David Watkins, August 5, 1993.

⁶⁶⁴ Exhibit 124, Deposition of Park Police Major Robert Hines, July 30, 1994.

Investigative history

immediately following Mr. Foster's death,⁶⁶⁵ far more than the Park Police interviewed.

At the August 10, 1993 press conference, Deputy Attorney General Philip Heymann explained that "[t]he FBI joined the Park Police in the initial stages of the inquiry into Vince Foster's death... [and] the FBI has been assisting in that investigation..."⁶⁶⁶

The FBI officially closed its first investigation on August 5, 1993. But at the press conference Mr. Heymann said he had "received an FBI report this morning..."⁶⁶⁷ four days after the FBI and Park Police had officially closed the case.

⁶⁶⁵ Exhibit 160, Table of Contents of reports of FBI interviews, by FBI Agent Scott Salter, August 9, 1993: [Assistant White House Counsel] Stephen Neuwirth, [White House Counsel] Bernard Nussbaum, [Deputy Assistant Counsel to the President] Charles W. Burton, [White House Chief of Staff] Thomas McLarty, [Assistant to the President] David Gergen, James Hamilton, [Deputy Attorney General] Phillip Heymann, Leonard Megby, [Assistant Counsel] Clifford Sloan, [Secret Service Agent] Donald Flynn, [Secret Service Agent] Paul Imbordino, [Deputy Assistant Attorney General] David Margolis, [Deputy Assistant Attorney General] Roger Adams, [Park Police Captain] Charles Hume, [Park Police Detective] Peter Markland, [White House executive secretary] Deborah Gorham, Duncan Sellers, Ray Scott, Susan Purvis, Joseph Purvis, Roger Kammerdeiner, Joseph Phillips, James Young, [Chief of staff to the First Lady] Margaret Williams, [Special assistant to the President] Patsy Thomasson, [Assistant to the President] David Watkins.

See also FBI/Park Police interviews of Secretary to the White House Counsel Betsy Pond, Executive assistant to the White House Counsel Linda Tripp, and Staff assistant Tom Castleton.

⁶⁶⁶ Exhibit 162, Transcript of August 10, 1993 press conference with Philip B. Heymann, Deputy Attorney General, Robert Langston, Chief, U.S. Park Police, Robert Bryant, Special Agent-in-Charge of the Washington Metropolitan Field Office, FBI.

⁶⁶⁷ Exhibit 162, Transcript of August 10, 1993 press conference with Philip B. Heymann, Deputy Attorney General, Robert Langston, Chief, U.S. Park Police, Robert Bryant, Special Agent-in-Charge of the Washington Metropolitan Field Office, FBI.

Investigative history

The day after the death, July 21, FBI agents met with White House Counsel Bernard Nussbaum, Assistant White House Counsel Steven Neuwirth and Assistant White House Counsel Clifford Sloan to discuss the search of Mr. Foster's office. The press focused on Mr. Nussbaum's refusal to let authorities see all the documents he reviewed during the office search on July 22 in the presence of the FBI and the Park Police, and later, to allegations that White House personnel searched the office before Nussbaum's official search.

No press account has ever mentioned the FBI's prior search, memorialized by a US Secret Service Report, written by a TSD (Technical Security Division) officer of the US Secret Service. On August 3, 1993, that officer wrote that on July 31, 1993, eleven days after the death, an FBI agent told him of the FBI's involvement in the case.

"[The agent]... and some other agents (five) were working on the Foster suicide... working... leads on some info they had received..."⁶⁶⁸

This Report also recounts that another Secret Service Officer told the author that, by the time the locks to Mr. Foster's office had been changed, FBI agents had already removed "evidence" from Mr. Foster's office.

The reason for the Officer there and the lock request [was] to seal the office for the investigation. The [Uniformed Secret Service] officer then told us [the author and another T.S.D. officer] that the FBI had removed evidence from Mr. Foster's desk, never inferring [sic] what the evidence was.⁶⁶⁹

The source of the information that "the FBI had removed evidence" was the Officer who was there to change the locks on

⁶⁶⁸ Exhibit 166, US Secret Service Memorandum, August 3, 1993.

⁶⁶⁹ Exhibit 166, US Secret Service Memorandum, August 3, 1993.

Investigative history

Wednesday, July 21 at 10:30 p.m.⁶⁷⁰ So, we know that the FBI had to have removed evidence from Mr. Foster's office before the locks were changed. The FBI was later charged with determining who had secretly ferreted out documents from Mr. Foster's office in the aftermath of his death,⁶⁷¹ and determining what was removed.

2. Publicity of the removal of Whitewater documents from Mr. Foster's office on the eve of the Fiske probe

The Independent Counsel Statute expires every five years, unless reenacted. Congress let it expire on December 15, 1993. It was not until August of 1994 that Congress reenacted the statute and the three-judge panel of the United States Court of Appeals for the DC Circuit regained its power to appoint a special prosecutor.

Investigative history

In late 1993, federal regulations did, however, authorize Attorney General Janet Reno to appoint what is know as a "regulatory" Independent Counsel. Six months to the day after Mr. Foster died, January 20, 1994, Ms. Reno appointed Robert B. Fiske, Jr., to serve as

⁶⁷⁰ Exhibit 167, Federal Security Systems Work Orders for lock change in Mr. Foster's White House Office, July 21, 1993.

⁶⁷¹ See Exhibit 178, Senate testimony of FBI Agent Lawrence Monroe, July 29, 1994:

Senator Faircloth: As a professional law enforcement Officer, would you infer from the removal of these documents the evening of Mr. Foster's death after the office was supposed to have been secured, would that constitute obstruction of justice?

Mr. Monroe: I can make no inference there, and that is going to be, and is, part of our continuing investigation, sir.

[Senate Report 104-280 (June 17, 1996), which specifically addressed the issue of the removal of documents from Mr. Foster's office in the aftermath of his death, fails to address the prospect of culpability of any FBI agents.]

Investigative history

regulatory Independent Counsel. His mandate was to investigate whether there were violations of criminal law relating to the Clintons' "relationship with:

- (1) Madison Guaranty Savings and Loan Association;
- (2) Whitewater Development Corporation; or
- (3) Capital Management Services."⁶⁷²

Mr. Foster's name was linked to Whitewater and to the failed Madison Guaranty Savings & Loan in two articles that appeared in the Washington Post in early November, 1993.⁶⁷³ On December 18, 1993, the Washington Post published an article by Michael Isikoff, *Probe Pursues White House Aide's Undisclosed Diary*.⁶⁷⁴ It reported that in December, an anonymous "Park Police investigator has said he recalls seeing 'paperwork' related to McDougal in the pile of documents he inspected at Hamilton's office" five months earlier, in July of 1993.⁶⁷⁵ According to the next day's New York Times, anonymous sources were "trying to determine" whether Whitewater files were removed from Mr. Foster's office, "no such file was listed in the inventory," but "it was

⁶⁷² 28 CFR § 603.1 (1993).

⁶⁷³ See M. Isikoff & S. Schmidt, *Clinton's Former Real Estate Firm Probed*, Wash. Post, Nov. 2, 1993. "[T]he late Vincent Foster, the Clintons' personal attorney and later Deputy White House counsel, met McDougal to execute the sale of the Clintons' interest in Whitewater to McDougal." See also S. Schmidt, *Regulators Say They Were Unaware Of Clinton Law Firm's S&L Ties*, Wash. Post, Nov. 3, 1993. "Madison Guaranty Savings and Loan, failed in 1989, costing taxpayers... According to FDIC records, however, the late Vincent Foster, a Rose partner before joining the Clinton White House..."

⁶⁷⁴ See M. Isikoff, *Probe Pursues White House Aide's Undisclosed Diary*, Wash. Post, December 18, 1993: "One Park Police investigator has said he recalls seeing 'paperwork' related to McDougal in the pile of documents he inspected at Hamilton's office."

⁶⁷⁵ Exhibit 6, Deposition of Park Police Investigator John Rolla, July 21, 1994: "Myself and Lieutenant Kass, K-a-s-s, went to Hamilton's office. This was, again, a couple days after the initial search of his office at the White House."

Investigative history

possible that the file... had been... given to James Hamilton, the family lawyer."⁶⁷⁶

The next day, Jerry Seper's Washington Times piece, *Clinton papers lifted after aide's suicide*,⁶⁷⁷ reported that Whitewater documents were, in fact, ferreted out of Mr. Foster's White House office by "two Clinton political operatives... less than three hours" after the discovery of the body. It credited the account to "two U.S. Park Police investigators who asked not to be publicly identified," who said it was "not clear who took the documents," but that they were "turned over to Mr. Foster's attorney, James Hamilton."

Three days later, on December 23, 1993, the Washington Post reported White House confirmation of the removal of a file, but that attorney David Kendall, not James Hamilton, had it. A "file on Whitewater" was in the possession of "the Clinton's personal attorney, David E. Kendall," having been given to Kendall by Bernard Nussbaum.⁶⁷⁸

⁶⁷⁶ See D. Johnston, *Missing White House File Is Sought*, N.Y. Times, December 19, 1993: Federal investigators are trying to determine whether a file relating to a failed Arkansas savings-and-loan owner and his investment firm was taken from the White House office of Vincent W. Foster Jr. after he committed suicide in July, law-enforcement officials said today... But the law enforcement officials said no such file was listed in the inventory of items in Mr. Foster's office that was conducted by Bernard W. Nussbaum, the White House Counsel, in the presence of Federal agents on July 22...

⁶⁷⁷ See J. Seper, *Clinton papers lifted after aide's suicide*, Wash. Times, December 20, 1993: White House officials removed records... [during] a clandestine visit July 20 to Mr. Foster's office - less than three hours after his body was found... by two Clinton political operatives, according to two U.S. Park Police investigators who asked not to be publicly identified... The investigators said the existence of the Whitewater records came to light when Park Police visited Mr. Hamilton's office "about a week after the death" to review a personal diary that also was taken during one of the searches...

⁶⁷⁸ See S. Schmidt, *Hill Seeks Probe of Land Deal*, Wash. Post, December 23, 1993: "A file on Whitewater was discovered in Foster's office after his July 20 suicide and was turned over to the Clinton's personal attorney, David E. Kendall, by White House Counsel Bernard Nussbaum."

Investigative history

The Washington Times's claim, that the Park Police knew in July of 1993 that Whitewater documents were removed, is suspect. Even if the Park Police did, in fact, see the papers in July of 1993, it is unlikely that they would have known at that stage what they were viewing. The term "Whitewater," as well as Mr. McDougal's name, appeared only once as of July, 1993, in an April Washington Post article concerning the President's tax returns. Indeed, if the Whitewater documents had been turned over to Hamilton or Kendall, the person who took them would likely be known. That person, if he or she exists, has not yet materialized.

The OIC recounts this dubious version of events.

OIC, p. 6:

On December 20, 1993, the White House confirmed that Whitewater-related documents had been in Mr. Foster's White House Office at the time of his death. On January 12, 1994, President Clinton asked Attorney General Reno to appoint an independent counsel, and on January 20, 1994, the Attorney General appointed Robert B. Fiske, Jr....

The report of the removal of Whitewater documents appeared to have provided a rationale, or pretext, for the FBI, working under the auspices of Mr. Fiske's office of the regulatory Independent Counsel, then planned and established a month later, to have its FBI agents investigate Mr. Foster's death, again.

3. Reports generated by Fiske's FBI probe

Most of the evidence cited in this work was generated during the Fiske probe. As we have seen, evidence that the FBI under the auspices of the Fiske probe concealed the facts surrounding Mr. Foster's death pervades the publicly available federal government record in the case.

Investigative history

OIC, p. 2:

"[The] law enforcement investigation... under the direction of regulatory Independent Counsel Robert B. Fiske, Jr. -- concluded that Mr. Foster committed suicide by gunshot in Fort Marcy Park."

The Report's description of the Fiske probe as "*a new investigation of Mr. Foster's death*" misleads the reader. Given the FBI's significant participation in the first probe, the Fiske probe was new in name only.

OIC, p. 6-7:

"Mr. Fiske also opened a new investigation of Mr. Foster's death, utilizing FBI resources and a panel of distinguished and experienced pathologists."

The OIC omits that Fiske's "*panel of distinguished and experienced pathologists*" had significant ties to the FBI, as well as to each other. Dr. James L. Luke, who headed Fiske's pathology panel at the same time as the FBI employed him,⁶⁷⁹ co-authored publications with two of the other three of the pathologists on the panel, Drs. Donald Reay⁶⁸⁰ and Charles Stahl.⁶⁸¹

⁶⁷⁹ Exhibit 12, Fiske Report, June 30, 1994: "Employment... Present Forensic Pathologist, Investigative Support Unit, Federal Bureau of Investigation, FBI Academy, Quantico, Virginia."

⁶⁸⁰ Exhibit 12, Fiske Report, June 30, 1994: "J.L. Luke, D.T. Reay... *Correlation of Circumstances with pathological findings in asphyxial Deaths by Hanging...*" "J.L. Luke and D.T. Reay. *The perils of investigating and certifying deaths in police custody...*"

⁶⁸¹ Exhibit 12, Fiske Report, June 30, 1994: "Stahl, C.J... Luke, J.L. *The effect of Glass as an Intermediate Target on Bullets...*"

Investigative history

The FBI's *Law Enforcement Bulletin* published an article by Dr. Reay.⁶⁸² Dr. Stahl held a faculty position at the FBI Academy in Quantico, Virginia.⁶⁸³ He also served on the faculty of a seminar given by the Office of the Chief Medical Examiner of Virginia, which is the office that performed the autopsy on Mr. Foster.⁶⁸⁴

The OIC's pathologist, Dr. Brian Blackbourne, worked for the District of Columbia Medical Examiner's Office at the same time as Dr. Stahl and Dr. Luke, the Fiske probe's lead pathologist.⁶⁸⁵ Dr. Blackbourne also co-authored at least one publication with Dr. Luke.⁶⁸⁶

4. The FBI and the OIC

Under the heading *OIC Personnel*, the Report tells us that its investigators included three FBI agents.⁶⁸⁷ The OIC notes (p. 12) that

⁶⁸² Exhibit 12, Fiske Report, June 30, 1994: "D.T. Reay and Mathers, R.L.: *Physiological effects of neck holds*, FBI Law Enforcement Bulletin..."

⁶⁸³ Exhibit 12, Fiske Report, June 30, 1994: "Teaching Appointments: Faculty, Advanced Forensic Pathology Course, Armed Forces Institute of Pathology, FBI Academy, Quantico, VA"

⁶⁸⁴ Exhibit 12, Fiske Report, June 30, 1994: "Teaching Appointments... Faculty, Medico-Legal Seminar, Office of the Chief Medical Examiner, Commonwealth of Virginia..."

⁶⁸⁵ Exhibit 12, Fiske Report, June 30, 1994: "Employment... 1971-1983 Chief Medical Examiner, District of Columbia Office of the Chief Medical Examiner, 19th Street and Massachusetts Ave, S.E. Washington, D.C." Exhibit 12, Fiske Report, June 30, 1994: "Faculty, Inservice Training Program in Homicide Investigation, Criminal Investigations Division, Metropolitan Police Department, District of Columbia, May 1969; October 1969; May 1970; April 1971; September 1972; March 1973; September 1973"

⁶⁸⁶ Exhibit 12, Fiske Report, June 30, 1994: "J.L. Luke, B.D. Blackbourne and W.J. Donovan, *Bed-Sharing Deaths Among Victims of Sudden Infant Death Syndrome - A Riddle within a Conundrum*..."

⁶⁸⁷ OIC, p. 2-3: "The OIC's conclusion is based on analyses and conclusions of a number of experienced experts and criminal investigators retained by the OIC."

Investigative history

"these [three] investigators did not work on previous investigations of Mr. Foster's death." It fails, however, to reveal that during the course of its three-year Foster death probe, it did use FBI agents other than the three it mentioned, and that some of these agents had been detailed to the Fiske investigation. FBI agent Russell T. Bransford, who served the grand jury subpoena on Patrick Knowlton, was one such agent.

As we have seen, the FBI Laboratory served a major role in the OIC's Report.

5. Congress never conducted a probe of the death

The OIC declares on the second page of its Report that "[t]wo inquiries in the Congress of the United States reached the same conclusion."⁶⁸⁸ This is not true. Not one congressional committee has ever investigated the circumstances of Mr. Foster's death.

OIC, p. 8:

[T]he [Senate Banking] Committee concluded its inquiry with a report issued on January 3, 1995, stating that "[t]he evidence overwhelmingly supports the conclusion of the Park Police that on July 20, 1993, Mr. Foster died in Fort Marcy Park from a

They include... several experienced investigators with extensive service in the Federal Bureau of Investigation (FBI)..."

OIC, p. 12: OIC investigators who worked with these outside, independent experts included an FBI agent detailed from the FBI-MPD^{fn16} Cold Case Homicide Squad in Washington, D.C. Agents with the Cold Case Squad work with MPD homicide detectives in reviewing and attempting to solve homicides that have remained unsolved for more than one year. Another OIC investigator has extensive homicide experience as a detective with the MPD in Washington, D.C., for over 20 years. Two other investigators assigned to the Foster death matter have experience as FBI agents investigating homicides of federal officials and others.^{fn17}

⁶⁸⁸ See also OIC, p. 114: "In sum, based on all of the available evidence, which is considerable, the OIC agrees with the conclusion reached by every official entity that has examined the issue: Mr. Foster committed suicide by gunshot in Fort Marcy Park on July 20, 1993."

Investigative history

self-inflicted gun shot wound to the upper palate of his mouth."¹²

The OIC omits that this conclusion, which it recounts under its *Congressional Inquiries* section, was outside the scope of the Committee's limited investigative jurisdiction. Senate Resolution 229, *Section 1, Scope of the Hearings*, adopted in June of 1994 by a Democratic controlled Congress, confined the Foster death inquiry to whether the White House was guilty of "improper conduct" during the course of "the Park Service Police investigation into the death."⁶⁸⁹ Mr. Fiske had supported the adoption of Resolution 229.

The OIC accurately excerpts the Senate Banking Committee Report which states that "[t]he evidence overwhelmingly supports the conclusion," but actually, the 1994 Banking Committee had no jurisdiction to consider the matter. Because lines of inquiry exploring the issue of how and where Mr. Foster died were beyond the Committee's limited investigative jurisdiction, the Senate Banking Committee's having included those statements in its Report was misleading.

Although most Committee members plainly disavowed having considered the issue,⁶⁹⁰ Senator Orrin Hatch in his opening statement

⁶⁸⁹ Exhibit 161, *Resolution 229* states in pertinent part:

SECTION 1. SCOPE OF HEARINGS.

The Committee on Banking, Housing, and Urban Affairs (referred to as the "committee") shall-

- (1) conduct hearings into whether improper conduct occurred regarding -

* * *

- (B) the Park Service Police investigation Into the death of White House Deputy Counsel Vincent Foster;

⁶⁹⁰ Exhibit 26, Senate Banking Committee opening statements, July 29, 1994: Senator Carol Moseley-Braun, "Our investigation is only into the propriety of the investigation surrounding his tragic and untimely death;" Senator Robert F. Bennett, "I will be happy to stipulate that Vincent Foster committed suicide;" Senator Pete

Investigative history

spoke as if the Committee had thoroughly investigated the issue and had independently determined the manner and place of the death, and that there was "is absolutely no credible evidence to contradict the Fiske Report's conclusion that Vincent Foster took his own life and it happened at Fort Marcy Park."⁶⁹¹

When the 1994 Senate Banking Committee had its one day hearing in July, the only representatives who appeared to represent Mr. Fiske's office were Dr. Charles Hirsch and FBI Agents Larry Monroe and William Columbello. These two agents interviewed some of the more problematic witnesses in the case, including Patrick Knowlton and the civilian who was officially the first to discover the body and who requested anonymity. We do not know who else Agents Monroe and Columbello may have interviewed.

The other Report cited by the OIC under its *Congressional Inquiries* section is the "Summary Report," authored by Congressman William Clinger.

OIC, p. 7:

On February 24, 1994, Congressman William F. Clinger, Jr., then the ranking Republican on the Committee on Government Operations of the United States House of Representatives, initiated a probe into the death of Mr. Foster. Mr. Clinger's staff interviewed emergency rescue personnel, law enforcement officials, and other persons involved in the Park Police investigation of Mr. Foster's death.^{fn9} Mr. Clinger's staff obtained access to the Park Police reports and to photographs taken at the scene and at the autopsy.^{fn10} Mr. Clinger issued a report on August 12, 1994, concluding that "all available facts

Domenici: "I don't think anyone on our side is challenging whether or not it was a suicide."

⁶⁹¹ Exhibit 26, Senate Banking Committee opening statement of Senator Orrin Hatch, July 29, 1994.

Investigative history

*lead to the conclusion that Vincent W. Foster, Jr. took his own life in Fort Marcy Park, Virginia on July 20, 1993.*⁶⁹¹

OIC, p. 7, fn. 9:

Summary Report by William F. Clinger, Jr., Ranking Republican, Committee on Government Operations, U.S. House of Representatives, on the Death of White House Deputy Counsel Vincent W. Foster, Jr., at 1 (Aug. 12, 1994)

The OIC omitted that this Report is not a Government Operations Committee report, and that it was only six pages long (plus two pages of endnotes), and that the FBI or people associated with it supplied the information upon which it was largely based.⁶⁹²

END EXCERPT

⁶⁹² Exhibit 168, Summary Report by William F. Clinger, Jr., August 12, 1994: As part of our probe, my staff or I interviewed... law enforcement officials... review FBI lab reports... a comparison of CW's statements to FBI agents... special thanks to... Office of Special Counsel Robert B. Fiske, Jr. for their assistance... the New York Post reports that former FBI director William Sessions said... Dr. James L. Luke - forensic Pathology Consultant, FBI Investigative Support Unit, FBI Academy... Isikoff reports that DOJ and FBI agents... The DOJ had earlier planned to release reports... The autopsy was performed by Dr. Beyer... The Forensic Pathologist Panel included... Dr. Charles Hirsch... Small traces of an anti-depressant... [were] found in Mr. Foster's bloodstream. Fiske report at 30... Fiske report at 30...

Endnote 32: Correspondence with Congress.

LAW OFFICES
JOHN H. CLARKE
720 SEVENTH STREET, N.W.
SUITE 304
WASHINGTON, D.C. 20001
402-332-3030
June 19, 1996

ALSO ADMITTED IN VIRGINIA
AND MARYLAND

FACSIMILE
402-639-0899

The Honorable
United States Senate
Washington, DC 20510

Re: Report of Witness Tampering -
Harassment of Whitewater Grand Jury Witness

Dear Senator :

I am writing you to inform you of a very disturbing crime committed against my client, Mr. Patrick J. Knowlton. Its implications are of significant interest to the public.

Mr. Knowlton was in Fort Marcy Park on July 20, 1993, within 80 minutes of the discovery of the body of deputy White House counsel Vincent Foster. On October 22, 1995, Mr. Knowlton's story was published in a London newspaper, along with allegations that the FBI falsified reports of Mr. Knowlton's account of what he saw in the park. Four days later, on Thursday, October 26, Mr. Knowlton was served a subpoena to testify the following Wednesday, November 1, before the Washington, DC grand jury investigating Whitewater and other matters, including Mr. Foster's death.

During the time Mr. Knowlton spent in public the same day he received the subpoena, and continuing into the following day, he was the target of an orchestrated campaign of harassment and intimidation perpetrated by 25 or more men. We believe the harassment was an attempt to warn, destabilize and discredit Mr. Knowlton on the eve of his grand jury appearance.

The complete account of what happened to Mr. Knowlton is contained in the captioned Report. It is available to the public (see attachment). Mr. Knowlton and I thank you for your attention to this very disturbing crime.

Very truly yours,

John H. Clarke

Personalized letter, hand delivered to all 535 members of Congress, envelope marked "Member's personal attention." All seven responses follow. 145

UNITED STATES DEPARTMENT OF JUSTICE
48th DISTRICT, CALIFORNIA

WASHINGTON OFFICE

728 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0948
PH: (202) 225-2475 FAX: (202) 225-0948

DISTRICT OFFICE

11-17 Beach Boulevard, Suite 204
Pacifica, CA 94026 / (415) 352-1232
(714) 867-7422 FAX: (714) 867-7363



Congress of the United States
House of Representatives

June 19, 1996

COMMITTEE:

SCIENCE

CRIMINAL, SUBCOMMITTEE ON
ENFORCEMENT AND DISCIPLINE

SUBCOMMITTEE 112 OF 100

INTERNATIONAL RELATIONS

SUBCOMMITTEE 111 ON ASIA AND THE PACIFIC
SUBCOMMITTEE 113 ON INTERNATIONAL
ECONOMIC POLICY AND TRADE

Mr. Louie Freeh
Director
Federal Bureau of Investigation
J. Edgar Hoover F.B.I. Building
Ninth Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Director Freeh:

It has come to my attention that Patrick J. Knowlton, a Whitewater Grand Jury witness, believes he is the target of harassment by the Federal Bureau of Investigation (FBI).

Mr. Knowlton was in Fort Marcy Park the day Vincent Foster's body was found. He saw a suspicious looking man and a vehicle that are not consistent with the official version of events. The FBI interviewed Mr. Knowlton about what he saw at Fort Marcy Park. Mr. Knowlton claims that the FBI did not accurately report his testimony after the interview. Even more disturbing, Mr. Knowlton believes he was followed and harassed by a team of what he thinks may have been FBI agents after he went public with his story in order to destabilize him before his grand jury appearance.

I would like to know if the FBI has conducted a surveillance of Patrick Knowlton. If so, who requested the surveillance? Most importantly, were the proper FBI procedures adhered to in the Foster case?

I appreciate your immediate attention to this request.

Sincerely,

Dana Rohrabacher
Member of Congress

DR:lw

BARNEY FRANK
4TH DISTRICT, MASSACHUSETTS

2404 RAYBURN BUILDING
WASHINGTON, DC 20518-2104
(202) 225-8831
28 CLAFFY STREET
NEWTON, MA 02188
(617) 332-3820

Congress of the United States
House of Representatives
Washington, DC

June 20, 1996

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NEW BEDFORD, MA 02740
(508) 858-8482
222 MILLBURN PLACE
THIRD FLOOR
FALL RIVER, MA 02721
(508) 674-3821
89 MAIN STREET
BRIDGEWATER, MA 02324
(508) 887-8402

Mr. Kenneth W. Starr
Independent Counsel
1001 Pennsylvania Avenue N.W.
Suite 490 North
Washington, DC 20004

Dear Mr. Starr,

I recently received a letter from John H. Clarke, an attorney, on behalf of his client Patrick Knowlton. He said in the letter and in a subsequent conversation which I initiated that his client has been harassed by people whom he believes are trying to prevent his testifying in the matter of Vincent Foster, and in also discrediting Mr. Knowlton with regard to the testimony he has already given. When I asked, he told me that he already reported this to your office and I told him that I had full confidence that your office would thoroughly investigate this. I did tell him that I would write to you noting that I had received this. As I told Mr. Clarke, I am fully confident that you and your office are giving this the attention it deserves.


BARNEY FRANK

BF/mg

JOHN D. ROCKEFELLER IV
WEST VIRGINIA

United States Senate
WASHINGTON, DC 20510-4802

June 21, 1996

Dear Mr. Clarke:

Your letter of June 19, 1996 has been received.

We respectfully suggest you bring this matter to the attention of the proper legal authorities if you think there has been some violation of federal law with regard to your client.

Sincerely,



R. Lane Bailey
Chief of Staff

Mr. John H. Clarke
720 Seventh Street, NW
Suite 304
Washington, DC 20001

KAY BAILEY HUTCHISON
TEXAS

United States Senate

WASHINGTON, DC 20510-4304

COMMITTEES
ARMED SERVICES
SMALL BUSINESS
COMMERCE, SCIENCE,
AND TRANSPORTATION
SELECT INTELLIGENCE

June 26, 1996

John H. Clarke, Esq.
720 Seventh Street, N.W.
Suite 304
Washington, D.C. 20001

Dear Mr. Clarke:

Thank you for your recent letter and enclosure.

A number of the circumstances of the matter in question continue to be troubling. In an effort to be of assistance, I have taken the liberty of forwarding your letter and the accompanying material to Senator Orrin Hatch, Chairman of the Senate Judiciary Committee, Senator Alfonse D'Amato, Chairman of the Senate Banking Committee, and Special Prosecutor Kenneth Starr.

Sincerely,



Kay Bailey Hutchison

United States Senate

WASHINGTON, DC 20510-1004

PAUL D. COVERDELL
GEORGIA

CHAIRMAN
WESTERN HEMISPHERE SUBCOMMITTEE
FOREIGN RELATIONS COMMITTEE

June 26, 1996

Mr. John H. Clarke
Law Offices of John H. Clarke
720 Seventh Street, N.W. , Suite 304
Washington, D.C., 20001

Dear Mr. Clarke:

Thank you for your letter of June 19, 1996, regarding your allegations of harassment of your client Patrick J Knowlton.

While I would like very much to be of direct assistance to you in this matter, there is a long-standing policy of Congressional courtesy which reserves for a Representative the privilege of handling the affairs of her constituents. I am, therefore, taking the liberty of referring your correspondence to Eleanor Holmes Norton, since she represents the District of Columbia. I am confident Representative Norton will do everything possible to assist you.

Sincerely,



Paul D. Coverdell
United States Senator

PDC/jrp

ELEANOR HOLMES NORTON
District of Columbia

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE

SUBCOMMITTEES
PUBLIC BUILDINGS AND
ECONOMIC DEVELOPMENT
WATER RESOURCES AND
ENVIRONMENT



Congress of the United States
House of Representatives
Washington, D.C. 20515

COMMITTEE ON
GOVERNMENT REFORM AND
OVERSIGHT

SUBCOMMITTEE
RANKING MINORITY MEMBER,
DISTRICT OF COLUMBIA

June 27, 1996

John H. Clarke, Esq.
720 Seventh Street, N.W.
Suite 304
Washington, D.C. 20001

Dear Mr. Clarke:

Thank you for your recent letter regarding your client, Mr. Patrick J. Knowlton. I have forwarded your correspondence to the House Government Reform and Oversight Committee which has jurisdiction over such matters.

Sincerely,

Handwritten signature of Eleanor Holmes Norton in cursive script.
Eleanor Holmes Norton

DANIEL K. INOUE
HAWAII

APPROPRIATIONS
Subcommittee on Defense
COMMERCE, SCIENCE, AND TRANSPORTATION
Subcommittees on Surface Transportation
and Merchant Marine

COMMITTEE ON INDIAN AFFAIRS
DEMOCRATIC STEERING COMMITTEE
COMMITTEE ON RULES AND ADMINISTRATION
JOINT COMMITTEE ON PRINTING

United States Senate

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FAX 9388 963-6182

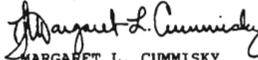
July 1, 1996

John H. Clarke, Esquire
720 Seventh Street, N.W.
Suite 304
Washington, D.C. 20001

Dear Mr. Clarke:

On behalf of Senator Inouye, who is away from the office, I wish to acknowledge receiving your letter concerning the alleged harassment and intimidation of your client, Mr. Patrick J. Knowlton, in conjunction with the investigation of Vincent Foster's death and the Whitewater affair. Before he left the office, the Senator asked me to acknowledge your letter and thank you for sharing this information with him.

Aloha,


MARGARET L. CUMISKY
Legislative Director

MLC:r

LAW OFFICES
JOHN H. CLARKE
1730 K STREET, N.W.
SUITE 304
WASHINGTON, D.C. 20006
EOB332-3030

ALSO ADMITTED IN VIRGINIA
AND MARYLAND

FAR (EOB) 822-8880

November 16, 1998

By Hand

The Honorable Henry J. Hyde
2110 Rayburn HOB
Washington, DC 20515-1306

- Re: (1) Patrick Knowlton v. FBI Agent Russell
Bransford, et al., USDC for DC, Conspiracy
to interfere with Civil Rights in violation
of 42 U.S.C. § 1985(2), Obstructing justice;
(2) Report on the Death of Vincent Foster, Jr.
By the Office of Independent Counsel
In re: Madison Guaranty
Savings & Loan Association

Dear Chairman Hyde:

The evidence of an FBI cover-up of the facts of Mr. Foster's death is clear. The Special Division of the US Court of Appeals ordered Mr. Starr to append evidence of this FBI cover-up to the only report Mr. Starr has filed with that Court, the Report on the Death of Vincent Foster. Congress runs the risk of looking ineffective if it ignores its Constitutional responsibility to act on this matter.

Mr. Starr's repeated and accurate description of his office as a "microcosm of the Justice Department" demonstrates his failure to create a prosecutorial office independent from the Department of Justice. This explains the Office of Independent Counsel's failure to bring a single indictment regarding the Travel Office matter and FBI files matter.

Personalized letter, hand delivered to all members of the House
Judiciary Committee on the eve of Mr. Starr's testimony regarding
the impeachment of the President. No response.

Mr. Starr's Office of Independent Counsel being a microcosm of the Justice Department also explains the contents of its Report on Mr. Foster's death, which is nothing more than another layer of the same, ongoing Justice Department cover-up. Not one single finding in that Report can withstand scrutiny when compared to the publicly available underlying investigative record. Mr. Starr has undermined our Ethics in Government Act.

In four-and-a-half years, the Office of Independent Counsel has filed two Reports regarding its investigations. If you ask Mr. Starr only about the Lewinsky Report, you will have ignored your Constitutional responsibility to exercise oversight over the Executive. The public has a right to know Mr. Starr's answers to the enclosed questions regarding his Report on the Death of Vincent Foster.

We are informing all members of the House Judiciary Committee of the facts before filing in court the proof of the allegations in the enclosed Amended Complaint, filed October 21, 1998.

Respectfully submitted,



John H. Clarke

Enclosures:

Appendix to Report on the Death of Vincent Foster
Second Amended Complaint (excerpts)
with Motion for Leave to File
Transcript of oral argument in the trial court
(excerpts)
Questions prepared for Mr. Starr re the Office of
Independent Counsel's Report on the Death of
Vincent Foster

END EXCERPT

The media

Endnote 33: The media.

March, 1996, Report of Witness Tampering provided to: Sarah Fritz & Tom McCarthy, LA Times; Robert Hohler, Boston Globe; R.W. Apple, New York Times; Marilyn Rauber, John Crudele, & Steve Dunleavy, N.Y. Post; Jerry Seper, Wash. Times; Anne Devroy, Wash. Post; Michael Isikoff, Newsweek; Micah Morrison, Wall Street Journal; Lou Kilzer, Denver Post; editor, Chicago Tribune; editor, Philadelphia Inquirer; Jack Loftis, Houston Chronicle; Charles Zehren, Newsday; Jamie Dettmer, Insight on the News; Washington editor, Reuters News Agency; Pete Yost, Associated Press; Brian Gaffney, Dateline NBC; Ted Koppel; Julia Malone, Cox News; Lisa Tutman, Cox Broadcasting; HardCopy; Unsolved Mysteries; Inside Edition.

Representatives from the following media organizations present at a November 12, 1996, press conference on the steps of federal District Court in Washington, unsealing Patrick Knowlton's civil rights lawsuit: CNN, Insight on the News, Wash. Post, N.Y. Times, Wash. Times, ABC News, NBC News, CBS News, Fox News, Time Magazine, N.Y. Observer, Cox News, among others.

Media accounts of the October, 1997, release of the OIC's Report on Mr. Foster's death, mentioning Patrick Knowlton's name but failing to report the existence of his Court-ordered Appendix:

S. Labaton, *Report of Foster's Suicide portrays a depressed man*, N.Y. Times, October 11, 1997: The report also dismisses the testimony of Patrick Knowlton, a witness who says he was at the park the day Foster died and did not see his car but did see a person who stared at Knowlton menacingly. The report concludes that there is no reliable evidence that anyone at the park "had any connection to Foster's death."

The media

B. York, *Vince Foster, In the Park, with the Gun*, The Weekly Standard Magazine, October 27, 1997: Byron York is an investigative writer with the *American Spectator* *** [C]onspiracy theorists... have already begun to complain about Starr's treatment of Patrick Knowlton, a motorist who says that on July 20 he stopped in Fort Marcy to relieve himself and saw a man in a car who stared at him menacingly... But Starr found no other evidence to support Knowlton's story, and the report mentions the incident only briefly. M. Morrison, *In Re: Vincent Foster*, Wall Street Journal, November 25, 1997: "Most of the other allegations, including the recollections of much-touted witness Patrick Knowlton, represent the confusions inevitable in any large investigation of a dramatic event."

Some responses from journalists when asked by the authors whether they are interested: George Will, Feb., 1996: "We're not interested in that [Foster case]; Fred Barnes, Feb. 23, 1996: "Conservatives should ignore the death of Vincent Foster and stick to the real issues... It was a suicide... No, I don't want to meet Patrick Knowlton;" Tim Russert, Feb. 29, 1996: "I appreciate your taking the time... It is important to have your input;" James Stewart, March 20, 1996: "Now I think it is too much of a coincidence that he [Foster] would be that depressed and then that somebody would somehow move in and fake some kind of crime. Life just doesn't work like that;" Haynes Johnson, May 28, 1996: "You have raised provocative questions;" Ted Gest, 1996: "Our magazine [*Newsweek*] covers consumer issues, that is not the kind of story we cover, try one of the daily papers;" James Whalen (St. Paul Journalism Prof.), "If there was anything suspicious about Foster's death the Washington press would cover it;" Paul Gigot (*Wall St. J.*), July 23, 1996: "Foster committed suicide. Everything points to that... No, I don't want to meet him [Patrick Knowlton] and you probably think I am part of the conspiracy;" Michael Barone, July 30, 1996: "I'm not going to defend the coverage of Vincent Foster by *U.S. News & World Report*, I do not know enough

The media

about the Foster story;" Jerry Seper (*Wash. Times*), Oct. 17, 1996: "I don't cover Foster, I'm covering Whitewater. Ask George Archibald, he has been assigned the Foster story;" George Archibald, Oct. 24, 1996: "Foster is dead. I don't cover Foster... My time is limited;" Eugene Meyer (*Wash. Post*), Nov. 5, 1996: "No, it's not my job... I don't care about your friend;" Karen Ballard (*Wash. Times*), Nov. 5, 1996: "Why don't you write the story;" William Kristol, Nov. 8, 1996: "Amazing... What kind of work does Mr. Knowlton do?" Candy Crowley (CNN), Kwame Holman, Peter Kenyon (NPR), Nov. 19, 1996: "If it was reported I would cover it... I have to cover other news, it's not my job;" Carl Stern, Michael McCurry, Marlin Fitzwater, & Charles Bierbauer (CNN), Feb. 13, 1997: "We don't know anything about it;" Cokie Roberts, April 13, 1997: "Thousands of reporters have looked into the death of Vincent Foster and everyone including the numerous investigations have concluded that his death was a suicide;" Paul Harvey, July 16, 1997: "The death of White House counsel Vincent Foster has now been investigated four times including Kenneth Starr's most recent one and all four have reached the same conclusion. There was no conspiracy, no cover-up, it was suicide;" Mike Wallace, July 23, 1997: "Just wait until Ken Starr's report is released, then you can apologize to me;" Tom Sherwood, WRC-DC, July 31, 1997: "I can't believe there would be a cover-up... Why don't you contact Mike Isikoff;" Michael Isikoff, Aug. 13, 1997: "[I] do not have enough evidence to go with the story about Patrick Knowlton's allegations;" Martha Malan, (*St. Paul Press*), Oct. 12, 1997: "We don't have the resources to cover the Foster story... No, I don't want to talk to Patrick Knowlton;" John Crudele (*N.Y. Post*), Nov., 1997: "I don't believe there is a cover-up;" Steve Labaton, (*N.Y. Times*), Nov., 1997: "The court had to attach your submission;" Bob Zelnick, May 30, 1998: "[There isn't] any credible evidence that Vincent Foster was murdered. Can I ask to change the subject?" Harold Hostetler, June 25, 1998: "Mr. Knowlton does appear to be an honest and forthright person who is sticking up for his principles and beliefs. However, I do not see this as a potential story for *Guideposts*;"

The media

Sam Fullwood (*L.A. Times*) at Sanford Ungar AU forum (with L. Brent Bozell III, Karen DeYoung & Bill Plante), Sept. 8, 1998: "It's not my kind of story... Why don't you post it on the Internet then everyone will know... Why don't you write a book, you could make lots of money;" Matt Drudge, "I'll read this [written materials] but I was just about ready to believe the body was moved and now you're saying he was murdered;" Frank Sesno, Sept. 24, 1998: "I'll look at this;" Helen Thomas, Oct. 7, 1998: "[T]his should be reported to the American people;" Helen Thomas, April 9, 1999: "Q. I gave you the addendum to Starr's Report. Will you write about Patrick Knowlton? A. No... I don't have time. Q. Can I quote you? A. No. Q. You said then that his story should be reported. A. It is very unfair of you to do this to me. Just forget it."

Attacks on Patrick Knowlton's mental stability: Excerpt from Knowlton v. Edwards et al, USDC, DC, CA No. 96-2467:

170. Defendants also accomplished their object of publicly discrediting Plaintiff. On November 24, 1997, a book review entitled *The Secret Life of Ambrose Evans-Pritchard*, written by Michael Isikoff, appeared in the widely circulated Weekly Standard Magazine. In it, Isikoff wrote:

* * *

Evans-Pritchards' work, such as it is, consists of little more than wild flights of conspiratorial fancy coupled with outrageous and wholly uncorroborated allegations offered up by his "sources" - largely a collection of oddballs... and borderline psychotics.

* * *

Back in Washington, Evans-Pritchard breaks one of his big stories: Patrick Knowlton, a construction worker who stopped to urinate at Fort Marcy Park on the afternoon of Vince Foster's death and -- here's the key part -- recalls

The media

seeing a mysterious "Hispanic-looking" man lingering around the parking lot. No sooner has Evans-Pritchard popped this bombshell in the *Telegraph* than, Knowlton reports, menacing-looking men in business suits begin following him and staring really hard at him...

* * *

But for the moment I prefer my own conspiracy theory: Evans-Pritchard doesn't believe a word he has written... designed to discredit critics of the Clinton White House by making them look like a bunch of blithering idiots.

* * *

The next day, November 25, 1997 another book review, entitled *Conspiracy Central*, authored by Jacob Cohen, appeared in the widely circulated National Review Magazine. In it, Cohen wrote:

* * *

...Patrick Knowlton, who claims that he came to the park at 4:30 on the afternoon of July 20 to relieve himself, and at that time saw in the parking lot a brown Honda with Arkansas plates...

* * *

He insists that a very sinister-looking man was hovering around the parking lot and may have monitored his peeing... Knowlton seems to have a penchant for seeing the sinister in the glances of those he meets... Mysterious cars follow him, he says. Carefully organized teams of men constantly pass him and his girlfriend on the streets, giving them very menacing stares... Apparently, they are present during every walk

The media

Knowlton takes, so that any experimental stroll will reveal them. One wonders, is there a school that teaches federal agents this methodology of intimidation?

An analysis of the use of the media during the progress of the cover-up could include:

- (1) A comparison of the initial published accounts of Mr. Foster's demeanor (no noticeable signs of distress) to the accounts that suddenly began appearing upon the "discovery" of torn note six days after the death (rapid weight loss and other symptoms consistent with severe depression);
- (2) The alliance between the Washington press corps and the Justice Department -- permanent institutions of government;
- (3) The chilling effect on witnesses of the steady stream of press leaks that the OIC was soon to issue a report validating earlier official conclusions (see January 1995 Scripps-Howard wire reporting Starr's suicide conclusion appearing the same day that the OIC began grand jury proceedings into the death, February, 1995 *Wall Street Journal* feature quoting sources close to Starr as saying the case had been closed as a suicide, October, 1995 *60 Minutes* piece declaring that Starr's suicide report would be out shortly, December, 1995 Fox News report that Starr's Washington office was to issue a suicide report within six weeks, July, 1996 *60 Minutes* piece declaring that Starr had concluded the death was a suicide and that a report would be issued that summer, November, 1996, *Newsweek* cover story by M. Isikoff quoting unidentified

The media

sources as saying that the suicide report was to be released imminently);

- (4) Years of repeating of the official suicide conclusion in stories about other matters, like the OIC's Supreme Court litigation of its subpoena of attorney James Hamilton's notes of a consultation he had with Mr. Foster shortly before the death;
- (5) Pulitzer Prize winning journalists who misreported the Foster story: Haynes Johnson, David Broder, Bob Woodward, Anthony Lewis, Mary McGrory, James Stewart, and Mike McAlary;
- (6) The accounts of the death in virtually every book written on the Clinton Presidency: Bob Woodward, The Agenda, Simon & Schuster, 1994; David Brock, The Seduction of Hillary Clinton, Free Press, 1996; Haynes Johnson & David Broder, The System, Little & Brown, 1996; James Stewart, Blood Sport, Simon & Schuster, 1996; Gary Aldrich, Unlimited Access, Regnery, 1996; R. Emmett Tyrrell, Boy Clinton, Regnery, 1996; Howard Kurtz, Spin Cycle, The Free Press, 1998; Ann Coulter, High Crimes and Misdemeanors, Regnery, 1998; Michael Isikoff, Uncovering Clinton, Crown Publishing, 1999; George Stephanopoulos, All Too Human, Little Brown & Company, 1999; Lanny J. Davis, Truth To Tell, Free Press, 1999; Joyce Milton, The First Partner, William Morrow & Company, 1999; Helen Thomas, Front Row At The White House, Scribner, 1999;
- (7) Unpublished accounts of witnesses -- in addition to Patrick Knowlton -- who contacted members

The media

of the news media to report what they know of the cover-up.

W. Barret, *Freedom to Steal, Why Politicians Never go to Jail*, New York Magazine, February 4, 1980: Crooked politicians have nothing to fear in New York. Contrary to much of the post-Watergate anti-corruption ballyhoo, the three United States attorneys who have served in Foley Square for the last ten years have failed to make a single case against a crooked politician within their jurisdiction. As astounding as it may seem, not since the legendary Carmine DeSapio was convicted back in 1969 for bribery has a top politician or any of the thousands of public officials in the Southern District's territory -- Manhattan, the Bronx, and Westchester -- found himself in handcuffs. It is uncertain whether this pattern of timidity on the part of the politically appointed prosecutors will change now that John S. Martin has been designated by Senator Daniel Patrick Moynihan to replace Robert B. Fiske in the prestigious post... The failure on the part of the federal prosecutors in the Southern District to involve themselves in political-corruption cases is one of the most fascinating, if unspoken, mysteries in city government. The end of Fiske's term, in March will, in fact, conclude a ten-year period in which Nixon- and Ford-appointed U.S. Attorneys have presided over the transformation of the Southern District into a red-light district for political corruption. *** The description of all political-corruption cases handled during the first three years of Fiske's term consumes only 6 of the 187 pages enumerating major cases in the U.S. attorney's annual reports. *** [T]he former WNEW-TV reporter who broke much of the Velez story, recalls numerous meetings with Weinberg and Fiske. "Once I know I brought them absolute, cold evidence of a crime," he said... but nothing happened. *** Charges of campaign-finance irregularities had been made [against Al

The media

DelBello] ...Fiske closed it [the grand jury] four months after he opened it... [and] sharply limited this inquiry... *** Fiske's office terminated an eight-month probe of the city's most political bank. Jack Newfield's recent piece on Staten Island Congressman Murphy in the *Village Voice* centers on an alleged \$50,000 bribe *** [It] has now been quietly closed without result. *** Then U.S. Senator James Buckley delayed Fiske's appointment for several weeks because of his concern that Fiske's long-standing connections to Morgan Guaranty, one of the city's six major banks... Fiske did not "recuse" - the legal term for withdrawing... *** Nonetheless, six months after the SEC final report, Fiske released a one-page statement closing the securities case... There are a number of other cases, reported in the media, that have been covered by Southern District silence and inactivity... *** Agents from various federal departments say they prefer to work with assistants from other offices where assistants are closer to the streets and more willing to work with agents as partners... Fiske, for example, has a hard-and-fast rule that assistants are not to do field work with agents, a rule that has no parallel in other, neighboring federal districts. The price we all pay for these relationships and priorities is a federal jurisdiction where official corruption appears legally impenetrable.

Compare *Now You Know...*, Wash. Post June 22, 1998: President and Hillary Rodham Clinton fed the hands that bite them Friday night, hosting more [than] 1,000 White House reporters, spouses and progeny at a South Lawn carnival.*** But tickled reporters jammed the Ferris wheel, arcade, merry-go-round and Twister, a stomach-churning pendulum. Nothing could kill the horde's locust like appearance for children, sausages, ice cream and cotton candy.