

OIC INVESTIGATORS MEMO (LEE) AND OTHER MEMOS/302

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Memorandum



To : MARK TUOHEY

Date 3/2/95

From : SA C.L. REGINI

Subject: FBI LABORATORY CONFERENCE

The subject meeting took place on Friday, February 24, 1995, with the following participants:

SA Chuck Regini, Office of the Independent Counsel
Associate Independent Counsel Hickman Ewing
Associate Independent Counsel Brett Kavanaugh
SSA Jim Corby, Materials Analysis, Unit Chief
SSA Rick Crum, Firearms
SSA Bob Spalding, Blood Pattern Analysis
SSA Henry Mathis, Documents
SSA Jennifer Lindsey, DNA
SSA Joe Errera, Serology
SSA Bruce Hall, Materials Analysis (soil)
SSA Roger Martz, Chemistry
SSA Kenneth Whitler, key examination
SSA Wayne Oakes, Hairs and Fibers
Lou Hupp, latent prints

The members of the Independent Counsel asked questions of each examiner to clarify the results of their respective examinations. Prior to the start of the conference, all of the participants viewed the video "UNANSWERED: The Death of Vincent Foster". The following is an outline of the examiner's responses to questions by members of the Independent Counsel, and their comments regarding questions raised in the video:

Blood pattern analysis (Spalding):

The positions of the decedent's head as depicted in the computer drawing on the video is wrong. The video depicts a small stain on the right side of the decedent's face, and three blood drain tracts. In reality, the facial stain is much larger, and there are only two drainage tracts.

1- Tuohey

1- Gillis

① Ea. Participant *Kavanaugh*

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The head assumed two positions, not four as suggested in the video. The decedent's head is tilted back at the death scene; the death scene was sloped and terraced. There was little blood surrounding the body, but there was a consistent amount of blood on the ground in the back of the decedent's head and on the back of the body, as noted on the decedent's shirt. The video ignored most of the blood pattern analysis findings. The transfer stain on the decedent's face and shirt is a saturating type of stain; a blotting type pattern- indicating that the head was in contact with the shirt for an undetermined period of time. The head could have been in contact with the shirt during the staining. The pre-autopsy photos indicate a number of post-event stain creations due to the transportation of the body; much more blood is noted on the decedent's white shirt.

Latent prints (Hupp):

It is common not to obtain latent prints off of a weapon; more likely not to get latents. The weapon was initially processed by the Park Police with only powder; even less likely to obtain latents using only this method. The locations of the developed latent prints in this case are as follows:

one latent finger print on the backside of the gun's grips.

the side of a palm on one torn section of the note.

two latent fingerprints on the Trippett business card; one of which was identified to Pete Simonello. The unidentified latent is on the back of the card.

two palm prints were located on the right rear side of the trunk of the decedent's vehicle by the Park Police.

two fingerprints were located on the right front door of the vehicle, above the window.

three fingerprints and a palm print were located on specimen Q6 (miscellaneous papers from the vehicle).

one fingerprint was located on an envelope.

Chemistry (Martz):

Trace amounts of two prescription drugs were found in the decedent's blood. These trace amounts would not show up in a routine analysis. The blood was not tested for alcohol; it is a very routine standard test that is very reliable- alcohol would have shown up in the post-autopsy toxicology test. It seems obvious that the decedent was experiencing emotional stress; first he tried the diazapam, when that didn't work he tried the trazodone. A "normal" person would not be taking these drugs. There are countless chemicals that could have killed the decedent that were not tested for; there is no one battery of tests for all poisons- need to know the poison. The same type of gunpowder in the ammunition found in the gun is the same type of gunpowder found on the glasses, consistent with the glasses being on the decedent's face when he was shot, and indicates that the gunpowder in the ammunition was the gunpowder used to kill him.

Serology (Errera):

Three genetic analysis comparisons were conducted on the decedent's blood and the blood located on the shirt and t-shirt. The t-shirt was positive on three of three, the shirt was positive on two of three; only one positive comparison is necessary for conclusive results; the blood on the shirt and t-shirt is the decedent's. The gun was negative for blood; a very limited test was conducted on the gun due to the other tests that were to be conducted on the weapon. A negative finding does not preclude blood or saliva being on the gun, this would be detected in the DNA testing. The previous dusting of the weapon for latents by the Park Police may have destroyed some or all of the blood on the weapon. Unconfirmed blood was located on the shorts. No blood was located on the glasses; also a very limited and conservative test due to other testing. The tie and the jacket had no blood on them; indicates that he took these items off prior to being shot. The video reported that it was suspicious that no bone fragments were found at the death scene, however, the Park Police did not conduct a search for bone fragments that night; the area was not tested for blood residues. The elements would have quickly washed away any small fragments. Additionally, rodents would have carried away small bone fragments.

DNA (Lindsey):

The decedent's DNA was located approximately 4 in. to the rear of the muzzle of the gun on the barrel. This seems to indicate that the DNA is from saliva, as from the mouth of the decedent. The location of the DNA would be consistent with the approximate position of the revolver to create an entrance wound in the soft palate. The semen that was located is from the decedent; it is not a mixed stain- no nonsperm.

Materials analysis (Hall):

Prior to the FBI search, the positioning of the decedent's body was precisely located on the slope. No soil was found on the decedent's coat, which indicates that it was not on the ground at the death scene. Micaceous soil in very small amounts was found on the scrapings from the decedent's shoes and socks (combined). Micaceous soil is flaky and glittery. This finding is consistent with the conditions and weather at the time of death. There would be no expectation of finding soil on the decedent's shoes because of the conditions and weather.

Firearms (Crum):

There was no indication that a silencer had been attached to the revolver found in the decedent's hand. Silencers are usually not attached to revolvers since sound would still escape from the cylinder area of the weapon. A gunshot sound would be muffled by the trees and the victim's mouth. Lead, in the form of smoke, can be detected up to two feet from the discharge of a firearm. Lead residues found on the decedent's shirt is consistent with the cylinder blast of the revolver.

Additionally, lead was detected at the 6th button on the shirt. The ammunition found in the revolver was Remington .38 special, with an HV headstamp. It is old ammunition and very common. Unable to say why the gun was not knocked out of the decedent's hand; very difficult to say whether it should have been knocked out of his hand, extremely speculative. The hand hold used by the decedent on the revolver is not the simplest or easiest, but is definitely plausible.

Hairs and Fibers (Oakes):

Two unidentified blonde hairs, along with a large and varied number of carpet fibers, were located in the debris from the scrapings of the decedent's clothing. One of the blonde hairs was 12 inches long. Neither of the hairs appear to have been forcibly removed. Unknown debris is common in any investigation. The decedent could have come into contact with the hairs and fibers at any point, but more likely within the past day. In a common household, it is possible that the hairs and fibers could have come from the laundry. The number and type of carpet fibers does not indicate that the decedent was rolled up in a carpet.

Corby:

The FBI search of Ft. Marcy Park for the bullet was logical and methodical; parameters needed to be set. Three different metal detectors were used, all set for a "bullet standard". Everything was not dug up, only items that could be bullets. Many bullets were found, none capable of having been fired from the revolver. The bullet was definitely not in the slope where the decedent was found.

There was no prior meeting of all the examiners to collectively discuss their findings in this case.

The conclusions by all of the examiners, when viewed comprehensively, strongly indicates suicide.

(Lee)

Memorandum

Office of the Independent Counsel

To : FILE 29D-LR-228253

Date April 25, 1997

From : SA JAMES T. CLEMENTE *JTC*

Subject: FORENSIC EVIDENCE RELATED TO FOSTER DEATH INVESTIGATION

On April 14, 1997, a conference call was placed between AC BRETT KAVANAUGH, OIC, SA JAMES T. CLEMENTE, FBI and DR. HENRY C. LEE, Director Connecticut State Police Forensic Lab. During this conversation, the following topics were discussed and DR. LEE agreed that it would be most accurate to state the following:

- "If Mr. Foster's body had been moved, blood likely would have spilled from his mouth and or the back of his head..."

- Dr. Lee examined the shoes and found no "heavy bloodstains or dripping type bloodstain patterns," contrary to what might have been found if the body had been moved in a vertical or upright position.

- A note should be added regarding the leather soles of the shoes to the effect that such soles do not have manufactured crevices which could hold "coherent soil." Also, Dr. Lee included in his report a photograph taken by the FBI Lab during their original examination of the shoes in which soil particles can be seen with the naked eye.

- It is accurate to state in general that "fibers cannot be conclusively identified as having one specific origin/source to the exclusion of all other origins, but that fibers can be identified for consistency."

- Gun powder residue will remain on a gun for years after it is fired, as long as it is not thoroughly cleaned. The length of time will vary depending upon how much the weapon is handled. Therefore the lead and antimony elements could have been transferred to the oven mitt by the Colt revolver even if the revolver had not been fired in years.

-The fact that the glasses were found 13 feet below the body on the berm is consistent with finding that Foster was wearing them while seated when firing the gun. Although not every possibility can be explained, this could be the result of the forces of gravity and or Newton's Third law of Motion (aka. the Principal of Action and Reaction).

motion, laws of

Newton's laws of motion are the three most fundamental natural laws of classical mechanics. Sir Isaac Newton stated them in his book *Principia Mathematica* (1686). Taken together, Newton's three laws of motion underlie all interactions of force, matter, and motion except those involving relativistic and quantum effects.

Newtons' first law of motion is also known as the law of INERTIA, which states that any object in a state of rest or of uniform linear motion tends to remain in such a state unless acted upon by an unbalanced external force. In effect, this is a definition of equilibrium; the branch of physics that treats equilibrium situations is STATICS. The tendency for matter to maintain its state of motion is known as inertia.

Newton's second law of motion, the most important and useful of the three, establishes a relationship between the unbalanced force applied to an object and the resultant acceleration of the object. This relationship states that an unbalanced force acting on a object produces an acceleration that is in the direction of the force, directly proportional to the force, and inversely proportional to the mass of the object. In other words, force equals mass times acceleration, or $F = ma$. Thus, a given force will accelerate an object of small mass more rapidly than it will an object of larger mass. Similarly, doubling the applied force produces twice the acceleration of an object of arbitrary mass.

According to Newton's third law of motion, which is also known as the principle of action and reaction, every action (or force) gives rise to a reaction (or opposing force) of equal strength but opposite direction. In other words, every object that exerts a force on another object is always acted upon by a reaction force. The recoil of a gun, the thrust of a rocket, and the rebound of a hammer from a struck nail are examples of motion due to reaction forces.

Gary S. Settles

Bibliography: McMullin, Ernan, *Newton on Matter and Activity* (1978); Sorabji, Richard, *Matter, Space, and Motion* (1988); Tippens, Paul, *Physics*, 4th ed. (1990).

Memorandum



To : ASSOC. INDEPENDENT COUNSEL BRETT KAVANAUGH 6/22/95

From : SA C.L. REGINI

Subject: FOSTER DEATH INVESTIGATION
SUMMARY OF PHYSICAL EVIDENCE

The following is a comprehensive summary of the physical evidence in this case. This summary does not include the items obtained during the search of Ft. Marcy Park on 4/4/94, since none of the items were determined to be relevant to this investigation. Preliminary examination by Dr. Lee indicates the possibility of the presence of blood on the USPP latent lifts from the glasses and revolver, as noted in my memo documenting my meeting with him on 6/9/95. My memo of 6/12/95 identifies the particular locations and amounts of hairs, fibers, and latent prints. Additionally, my memo of 3/2/95, which documents our meeting with the laboratory examiners, contains information regarding the nature of the forensic examinations and some of the conclusions that can be drawn from the results. ✓

I) Death Scene Observations.

A) The decedent was lying face-up on an approximate 45 degree sloped embankment, with his head toward the top of the slope. The location was consistently described to be near the "second cannon".

B) The decedent was wearing a white shirt. Blood stains are only observed on the right shoulder and neck area, and around the right rib cage area.

C) Blood trails are observed on the decedent's face.

D) The decedent's arms were at his sides. The right hand was around the cylinder of a black revolver.

1) right thumb trapped between trigger and inside edge of trigger guard.

2) one blood droplet on right index finger above second joint.

3) apparent gunshot residues along the outside edge of the right index finger, in close proximity to the cylinder gap of the weapon.

1-Tuohey

1-Ewing

1-Lueckenhoff

①-Kavanaugh

1-Gillis

1-Clemente

1-McCarrick

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4) The hammer of the revolver had to be cocked to remove the weapon from the hand (indicates that the revolver was cocked when the thumb was inserted).

5) The decedent's hand was flexible (gun was not tightly gripped).

E) Prescription glasses were collected approximately 13' downslope from the decedent's feet.

F) When the body was rolled, a large pool of blood was observed where the head had been resting.

1) Additionally, a larger area of blood was observed where the decedent's back was in contact with the ground, which coincided with blood stains observed on the back of the decedent's shirt.

2) A gunshot wound was observed at the back of the decedent's head.

G) The area was not searched for blood, other than by sight.

1) No blood was visually seen on surrounding vegetation.

H) The decedent was still wearing his jewelry and pager.

1) The pager had been manually turned off.

2) The decedent's wallet and identification were located in his unlocked vehicle.

a) The wallet contained \$292 and various credit cards.

I) The weapon was unloaded at the USPP office.

1) The hammer was down on a fired .38 caliber casing.

2) An unfired .38 cal. bullet was in the next chamber.

a) Colt revolvers rotate clockwise. The unfired bullet was in the next chamber to be rotated into firing position.

3) The serial number from the crane of the revolver cylinder (356555) was traced to the Seattle Hardware Co., Seattle, WA., 9/14/13.

a) The serial number on the frame of the revolver (355055) was traced to the Gus Habich Co., Indianapolis, IN., 12/29/13.

b) Consistent with describing the weapon as an antique or family heirloom.

J. The following items were taken as evidence at the location of the body on 7/20/93:

a) eyeglasses- 13' downslope from the decedent's feet. (Simonello).

b) revolver- from the decedent's right hand (Simonello).

c) Seiko wrist watch- from decedent's left wrist (Rolla).

Returned to Cliff Sloan on 7/21/93.

d) Pager- from decedent's right waist area (Rolla). Returned to Cliff Sloan on 7/21/93.

e) Silver ring with large white stone- from decedent's right ring finger (Rolla). Returned to Cliff Sloan on 7/21/93.

f) Gold colored ring with inscription "E.B.B. to V.W.F. 4-20-68" - from decedent's left ring finger (Rolla). Returned to Cliff Sloan on 7/21/93.

K. The following items were taken as evidence from the decedent's vehicle in the Ft. Marcy parking lot:

a) Brown leather wallet containing identification, credit cards, miscellaneous papers, and photos- from decedent's suit jacket pocket (Braun- Rolla). Returned to Cliff Sloan on 7/21/93.

(1) one of the papers in the wallet was a list of psychiatrists.

b) Black suit jacket- from front passenger seat of decedent's vehicle (Braun).

c) Blue silk tie with swans- on top of coat on front passenger seat (Braun).

d) White House Identification- under coat on front passenger seat (Braun). - returned that night to USSS

e) Miscellaneous papers- from glove box, trunk, and door (Braun).

L. Photos.

1. 35mm photos taken by Simonello were underexposed, and did not develop.

2. 5 Polaroid photos of the death scene initialed by Edwards, probably taken by Ferstl.

3. 8 Polaroid photos of the death scene taken by Rolla.

4. 5 Polaroid photos of the decedent's car at the Ft. Marcy parking lot taken by Braun.

M. The following items were taken as evidence from the decedent's right front pants pockets at the Fairfax Hospital Morgue on 7/20/93:

a) one key ring marked "Cook Jeep Sales" (Braun).

b) one key ring marked "Vince's Keys" (Braun). Returned with vehicle on 7/27/93.

II. Autopsy

A. Observations.

1. Cause of death: perforating gunshot wound mouth - head, no other trauma noted.

a. No evidence of abrasions, lacerations, contusions, or bone fractures (other than that associated with the head wound).

b. No evidence of teeth fractures or chipping.

2. Apparent gunpowder residues on both index fingers; more pronounced on right hand.

3. Abundant gunpowder residues on the soft palate of the mouth.

4. Toxicology was negative for alcohol and drugs.

B. The following items were taken as evidence subsequent to the autopsy at the Northern Virginia Medical Examiner's Office on 7/21/93. The items of clothing were placed into one bag and transported to the US Park Police Anacostia Office:

a) white colored, long-sleeved, button-down shirt (Johnson).

b) white colored, short-sleeved t-shirt (Johnson).

c) white colored boxer shorts (Johnson).

d) blue-gray colored pants with black colored belt (Johnson).

e) a pair of black colored socks (Johnson).

f) a pair of black colored dress shoes, size 11M (Johnson).

g) known hairs of Vincent Foster, Jr. (Johnson).

- h) known blood of Vincent Foster, Jr. (Johnson).
- i) known fingerprints of Vincent Foster, Jr. (Johnson).

The clothing was set out to dry on three pieces of brown wrapping paper, which were layed out on the floor of the USPP photo developing room. On 7/26/93, the items were packaged in separate containers and placed in the USPP evidence locker.

C. Autopsy documentation.

- 1. Diagrams (Beyer).
- 2. 5 microscopic slides containing sections of the soft palate, brain, heart, lung, and liver (Beyer).
- 3. 5 paraffin blocks, 3 of soft palate (Beyer).
- 4. 13 Polaroid photographs (Beyer).
- 5. 14 35mm photographs (Beyer).
- 6. 35 mm photos (Hill). *how many?*

III. Vehicle search.

A. The following items were obtained from a search of Foster's grey Honda Accord at the USPP impound lot on 7/21/93 by Officer E.J. Smith, and stored at the USPP evidence room:

- 1. Rand McNally Washington, D.C. map.
- 2. sunglasses.
- 3. "Happy Birthday card to Tom".
- 4. piece of white paper with red writing.
- 5. box of "The DeLuxe Check Printers, with four checkbooks in the name of Laura Foster.
- 6. clear plastic envelope with Insurance Identification Card listed to Vincent or Elizabeth Foster, Policy number 10094177-01, exp. 8/6/90.
- 7. one Sierra Nevada beer bottle (from inside white and green bag).
- 8. one Miller Lite beer can.
- 9. empty container of Marlboro Lites cigarettes.
- 10. one Kaopectate bottle.
- 11. one Clos Du Bois corkscrew.
- 12. Contents of front ashtray:
 - a. 35 pennies, two quarters, one nickel, a Compton's Foodland disk, a \$100 Estados Unidos Mexicanos coin dated 1985.
 - b. Chevron credit card.
 - c. Texaco credit card.
 - d. a guitar pick.

B. 35 mm photos were taken of the vehicle during the search (Smith).

C. The vehicle was processed for latent prints with negative results (Smith).

1. Four of these latent prints were later identified by the FBI Laboratory as being of comparison value.

D. The following items were obtained from the law firm of Sharp & Lankford by SA Russell Bransford on 6/16/94. The items were in the decedent's grey Honda Accord at the time it was released by the USPP. The items were removed from the car by William Kennedy.

The items were subsequently stored at the OIC-DC Office:

1. coffee mug
2. container of jellybeans
3. black eyeglass pouch with Rayban sunglasses
4. green kitchen mitt
5. one pair of brown moccasins
6. one blue audiocassette carryingcase with 12 music tapes
7. two hardcover books:
 - a. Speak Up With Confidence, by Jack Valenti
 - b. 2,000 Famous Legal Quotations, by M. Frances McNamara
8. Tysons Center directory
9. Potomac Mills directory
10. Eastern U.S. area map
11. one yellow envelope containing papers pertaining to the Honda Accord.
12. one White House envelope, hand addressed in pencil to William Kennedy, containing an Arkansas vehicle registration for a 1992 Lexus 300, with an attached post-it note.

IV) The note.

A. On 7/27/93 at 9:30 pm, numerous pieces of small yellow lined paper were obtained from Bernard Nussbaum by Det. Megby of the USPP.

B. On 7/28/93, the note was reconstructed and photographed (Simonello).

C. On 7/30/93, the note was released to SA Scott Salter, FBI.

D. On 8/5/93, the note was returned to the USPP.

V) On 3/21/94, all of the above items from the death scene, vehicle search, autopsy, and the note were released to the Office of the Independent Counsel (Colombell 302 of 3/21/94). The items were subsequently provided to the FBI Laboratory on 3/24/94.

VI) In December 1994, Sharon Bowman (decedent's sister) provided five .38 caliber rounds that were obtained from the Foster residence in Hope, AK.

VII) Approximately one week after Foster's death, Deborah Gorham located a copy of his life insurance policy in the middle drawer of his desk.

VI) FORENSIC EXAMINATIONS

A. The note.

1. one latent palm print of value was developed, and subsequently positively compared to the known prints of Bernie Nussbaum.

2. the handwriting was positively compared to the known writing of Vincent W. Foster, Jr. by the U.S. Capitol Police and the FBI.

3. one unidentified blue wool fiber.

4. no indented writing.

5. insufficient DNA for exam.

B. The vehicle.

- where* ↗
1. four latent prints of value (as identified by the FBI Lab).
 2. two latent prints of value from a business card which was part of the miscellaneous papers removed from the car.
 - a. one of the prints was positively compared to the known prints of Simonello (USPP).
 3. one latent fingerprint on a white envelope.
 4. four latent fingerprints from a pink envelope.
 5. one latent palm print from a greeting card.

C. Revolver.

- see bound* ↗
1. no latent prints on outside.
 - a. one partial latent fingerprint on underside of grip (unable to compare with decedent's known prints).
 2. no blood. *-USPP latent lifts
 3. decedent's DNA on muzzle.
 4. no alteration of serial number.

D. White, long-sleeved shirt.

1. positive reaction for gunpowder gunshot residue (ATF and FBI).
2. ball shaped gunpowder
3. decedent's blood.
 - a. the only stains on the shirt are blood and sodium rhodizonate.
4. no semen.
5. no hairs dissimilar to the decedent/suitable for comparison.
6. unidentified fibers (3).
7. no coherent soil.
8. mica particles.

E. Fired cartridge case.

1. fired from the revolver.
2. several pieces of ball smokeless powder.
3. no latent prints.

F. Unfired cartridge.

1. similar to fired cartridge in caliber, manufacturer, and headstamps.
2. contained ball smokeless powder.
3. no latent prints.

G. Eyeglasses.

1. one piece of ball smokeless powder.
2. no blood. (USPP latent lifts).
3. insufficient DNA for exam.
4. no latent prints.

H. Paper that decedent's clothes were set out on to dry at USPP.

1. ball shaped gunpowder.
2. one dissimilar gunpowder particle (perforated disk shaped, from a fired cartridge)

3. no hairs dissimilar to decedent's/suitable for comparison.
4. unidentified fibers (approx. 20).
5. no coherent soil.
6. mica particles.

I. Known blood of the decedent.

1. Trace amounts of trazodone, diazapam/nordiazapam.

J. Known hair of the decedent.

1. No drugs.

K. T-shirt.

1. ball shaped gunpowder
2. decedent's blood.
3. no semen.
4. unidentified head hairs.
5. unidentified fibers (2).
6. no coherent soil.
7. mica particles.

L. Socks and shoes.

1. one ~~dissimilar~~ gunpowder particle (flattened ball shaped from an unfired cartridge).
2. blood of unknown origin on one shoe.
3. no blood on the socks and the other shoe.
4. unidentified head hairs.
5. unidentified fibers (approx. 17 short fibers).
6. no coherent soil.
7. mica particles.

M. Known tissue samples from decedent's soft palate.

1. no unconsumed gunpowder particles- no ball shaped gunpowder.

N. Belt and pants

1. human blood, too limited to identify, on belt.
2. unconfirmed blood on pants.
3. no semen on pants.
4. unidentified head hairs.
5. unidentified fibers (numerous small/short fibers- all on one microscope slide).
6. no coherent soil.
7. no gunpowder residues (ATF & FBI).
7. mica particles.

O. Shorts.

1. unconfirmed human blood.
2. semen (DNA matched to decedent).
3. no hairs dissimilar to decedent's/suitable for comparison.
4. unidentified fiber (1).
5. no coherent soil.
6. mica particles.

P. Jacket.

1. no blood.
2. no semen.
3. no hairs dissimilar to decedent/suitable for comparison.
4. unidentified fibers (8 total from jacket, tie, handkerchief scrapings).
5. no coherent soil.
6. no mica.

Q. Handkerchief.

1. unconfirmed blood.
2. no semen.
3. unidentified fibers (8 total from jacket, tie, handkerchief scrapings).

R. Tie.

1. no blood.
2. no semen.
3. no hairs dissimilar to decedent/suitable for comparison.
4. unidentified fibers (8 total from jacket, tie, handkerchief scrapings).
5. no coherent soil.
6. no mica.

S. Brown wrapping paper, white filter paper, and white wrapping paper from around revolver.

1. no blood.
2. no DNA exam conducted (decedent's DNA on muzzle of revolver).

T. Miscellaneous papers from decedent's car.

1. unidentified DNA on an envelope (flap and stamp).
2. insufficient DNA for exam on other paper items.
3. indented writing ("VU Parking Ticket") on Ty Tippet business card. No indented writing on any other items.

U. Miller Lite beer can.

1. insufficient DNA for exam.

V. Sierra Nevada beer bottle.

1. insufficient DNA for exam.

W. .38 caliber ammunition provided by Sharon Bowman.

1. four rounds are of the same manufacture (Remington) as the rounds found in the revolver.
 - a. two of these rounds are lead round nosed bullets; the same as the unfired round in the revolver, but manufactured at a different time.
2. one bullet was a lead round nosed cartridge, but made by a different manufacturer.
3. all of these rounds were capable of being fired from the revolver.

<u>FN#</u>	<u>Description</u>
5	✓ Federal News Service
8-10	✓ Summary by Clinger, 8/12/94
13	Leenars and Berman Texts
25	✓ OIC Investigators Memo, 3/1/96
38-39	✓ Investigators 302, 4/29/94 @1
44	✓ Kyle 302, 4/14/94 @ 3 ⇒ (more than 1 on that date)
67	✓ 302 9/11/95 @ 2-3 (Beyer's Assistant ??) [Burgess]
81	✓ OIC Investigators Memo, 6/22/95 @ 2
128	✓ OIC Investigators Memo (Lee)
135	✓ FBI Lab Report, 7/9/96 @ 1
143	✓ Attorney 302, 6/16/94 @ 1 [Castellito]
149-150	✓ OIC Investigators Memo, 3/2/95 @ 4
153	✓ OIC Investigators Memo (Lee)
154	✓ OIC Investigators Memo, 3/1/96
160	✓ OIC Investigators Memo (Lee)
166	✓ Commonwealth of Virginia, Division of Forensic Science, Certificate of Analysis, Case No. 93-353, 7/26/93 (Huynh) Tab 5
170	✓ Pathologists Report, @1 end of Tab 3

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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 3/17/97

On March 11, 1997, writer travelled from Constitution Avenue in Washington, DC to the entrance at Fort Marcy Park to determine the distance in miles. From Constitution Avenue, in front of the White House, to the entrance of Fort Marcy Park, via the George Washington Memorial Parkway, the distance in miles is 6.4 miles. The distance from Ft. Marcy Park to parking area "C-1" is 3.3 miles; to area "C-2" is 3.55 miles; and to area B, near the comfort station, is 3.9 miles.



Investigation on 3/11/97 at Washington, DC File # 29D-LR-35063

by SA PATRICK F. FALLON, JR. Date dictated 3/17/97

Memorandum

Office of the Independent Counsel

To : FILE 29D-LR-228253

Date April 25, 1997

From : SA JAMES T. CLEMENTE *JTC*

Subject: Matters relating to noise and acoustics in Fort Marcy Park

Writer organized and conducted an extensive search of Fort Marcy Park in connection with the Foster death investigation. This search continued for seven weeks. In addition, writer has made several other trips to Fort Marcy Park in connection with this investigation. During these hundreds of hours expended in Fort Marcy Park, writer made the following observations:

-Fort Marcy is located in a heavily wooded park which is bordered to the North and East by Old Chain Bridge Road and the South and West by the George Washington Memorial Parkway.

-Old Chain Bridge Road passes within 40 yards of the location where Vincent Foster, Jr's body was found on July 20, 1993.

-Vehicular traffic is present on Old Chain Bridge Road throughout the day and this traffic is extremely heavy during the morning and evening rush hours.

-Due to the dense foliage during the Spring and Summer months it is difficult to see the vehicular traffic on Old Chain Bridge Road from the location where Mr. Foster's body was found. However, the vehicular traffic can be heard through this foliage.

-George Washington Memorial Parkway is sufficiently distant from the location where Mr. Foster's body was found that it creates little if any appreciable sound at that location.

-Large commercial jets fly directly over Fort Marcy at relatively low altitudes on their approach to Washington National Airport. This occurs approximately once every three minutes, producing an almost constant roaring and waning noise pattern in the park.

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/8/94

A physical surveillance was conducted of the parking lot at the headquarters building for the George Washington Memorial Parkway (GWMP), which is located on GWMP just east of the Turkey Run Recreation Area. The surveillance revealed the presence of a bulletin board and two pay telephones for use by the public on the southwest corner of the GWMP Headquarters parking lot. The telephone number for the telephone furthest to the north was (703) 821-9809, and the telephone number for the other telephone was (703) 847-9872.

A review of records which had been provided by the Fairfax County Fire and Rescue Department (FCFRD) revealed that the person who called in the initial 911 call to FCFRD about the discovery of the body of VINCENT W. FOSTER, Jr. in Fort Marcy Park, Virginia on July 20, 1993 placed the call from a telephone with telephone number (703) 847-9872.

Investigation on 4/29/94 at Fairfax County, VA File # 29D-LR-35063

by SAs DANA M. GILLIS and RUSSELL T. BRANFORD, RTB:rtb Date dictated 4/29/94

FOIA # none (URTS 16310) DocId: 70105208 Page 20

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 01/30/96

The following investigation was conducted by Special Agent JAMES T. CLEMENTE, Federal Bureau of Investigation (FBI), and Criminal Investigator COY A. COPELAND, Office of the Independent Council (OIC):

Commencing on September 12, 1995, a systematic and comprehensive metal detection search was conducted of FORT MARCY PARK, VA, for the bullet believed to have been fired from the revolver found in Deputy White House Counsel VINCENT W. FOSTER, JR.'S hand on the evening of July 20, 1993.

This search was undertaken upon the recommendation of Dr. HENRY C. LEE, Director, Connecticut State Police Forensic Science Laboratory, who examined evidence and acted as a consultant on this investigation. Dr. LEE advised that even at this late date the likelihood of locating the bullet was good, since it was composed mainly of lead and would not deteriorate appreciably. This belief was buttressed by the fact that in previous searches of Ft. Marcy Park bullets were unearthed, in near pristine condition, which had been buried since the Civil War 135 years ago.

The goal of this project was to devise and implement a search plan covering an expanded area, i.e., a greater area than searched in the prior U.S. Park Police and FBI searches, in and around Fort Marcy Park (hereinafter referred to as "the intended search area") consistent with the logical location of a bullet travelling with the expected velocity and trajectory of the bullet which is believed to have caused the death of Mr. FOSTER. Included in this intended search area were numerous trees which could have altered the course of or captured the bullet. Therefore, the search plan included any trees which fell within the intended search area.

Investigation on 9/12- 10/31/95 Ft. Marcy Park, VA File # 29D-LR-35063 Sub 17

by SA JAMES T. CLEMENTE, FBI CI COY A. COPELAND OIC Date dictated 01/30/96

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This search was conducted by the following individuals on behalf of the OIC:

RICHARD K. GRAHAM, GRAHAM DETECTION SYSTEMS;
ROBERT SONDERMAN, NATIONAL PARK SERVICE (NPS) ARCHEOLOGIST;
R. JEFFERY GREENE, OIC CONSULTANT;
COY A. COPELAND, OIC CRIMINAL INVESTIGATOR; and
SA JAMES T. CLEMENTE, FBI.

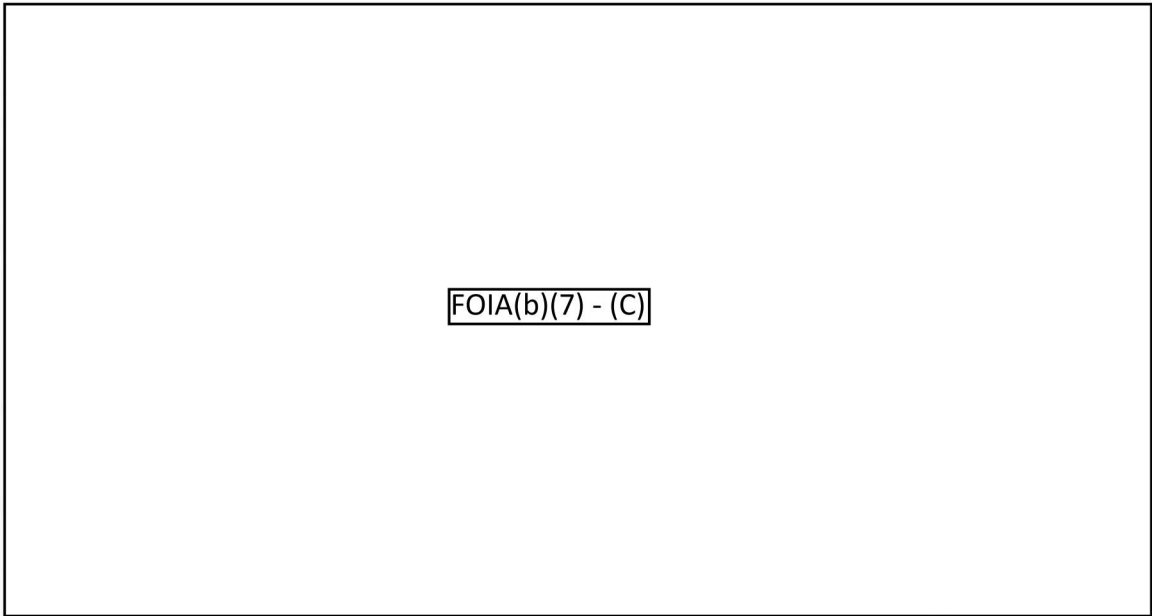
Also assisting during various stages of the search at Fort Marcy Park were the following individuals:

E. H. LUECKENHOFF, FBI, Inspector In Charge, Whitewater
DR. HENRY C. LEE, Director, Connecticut State Police Laboratory
DANIEL REILEY, SA, FBI, Coordinator, Evidence Response Team (ERT)
ARMIN A. SHOWALTER, SA, FBI, ERT, Washington Field Office (WFO)
MARK TOUHEY, Deputy Independent Counsel (DIC), OIC, Whitewater
BRETT KAVANAUGH, Associate Independent Counsel (AIC), OIC
JOHN BATES, DIC, OIC, Whitewater

FOIA(b)(7) - (C)

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CREG HOWLAND, NPS, Historian
JAMES BURGESS, NPS, Metal Detector Operator
PAUL HANDLEY, NPS, Global Positioning Systems
PATRICK GREGERSON, NPS, Global Positioning Systems
MARIAN CREVELING, NPS, Director, Archeological Laboratory
STEPHANIE EISENBARTH, NPS, Ranger
RAUL deCAMPOS, NPS, Fulbright Scholar
JAMES L. BEATY, NPS, Tree Worker
KENNETH L. BROOKS, NPS, Tree Supervisor
CHARLES STOUGH, NPS, Tree Worker
JAMES DODSON, NPS, Tree Worker
MARK WHITE, NPS, Tree Worker

The following representatives of the NPS also visited Fort Marcy Park in order to observe the progress of the search and its environmental impact:

AUDREY CALHOUN, NPS, Superintendent
DOTTIE P. MARSHALL, NPS, Deputy Superintendent

The search plan was devised through consultation with DR. HENRY LEE, JEFFERY GREENE, RICHARD GRAHAM, ROBERT SONDERMAN, and DR. BRIAN BLACKBOURNE, utilizing information obtained through ballistics tests performed by DAVID NEADS and RUSSEL PRATHER of the ARMY RESEARCH LABORATORY, ABERDEEN PROVING GROUNDS, Maryland.

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The Aberdeen tests were conducted in an effort to produce refined trajectory estimates of the bullet believed to have killed VINCENT W. FOSTER, JR. NEADS and PRATHER utilized the FOSTER autopsy report, FBI Lab ballistics reports and photographs of the death scene at Ft. Marcy Park to design and conduct ballistics tests duplicating the circumstances of the fatal gunshot wound to FOSTER. These tests were conducted by firing the actual revolver found in FOSTER'S hand, loaded with ammunition identical to both the intact and spent rounds recovered from the revolver. This ammunition was fired through human skulls filled with ballistic gelatin. Pig skin was used to cover the back of the skulls in an effort to approximate the human scalp.

The path, shape and velocity of the test bullets were photographed and measured as they exited the skulls. These measurements were used to calculate a trajectory estimate which in turn was used to approximate the unimpeded distance travelled by the bullet. The results were as follows:

- At an Angle of discharge of 0 degrees, Range = 20 meters.*
- At an Angle of discharge of 37 degrees, Range = 310-610 meters.

*[Estimate applies to a level surface, however, the elevation in Ft. Marcy Park drops significantly in the logical direction of the bullet's flight, increasing the expected range.]

Although the maximum range estimates predicted the possibility that, if unimpeded, the bullet could have cleared the tree tops in Ft. Marcy and landed well outside the park, the possibility exists that the bullet had a lower trajectory which would limit its range. A search covering the maximum range estimates would have included a vast area; therefore, a search which was limited in scope to the highest probability areas, closer to the minimum range estimates, was undertaken.

In addition, since dense foliage and trees surround the area where FOSTER'S body was discovered, and since there is a Civil War cannon approximately 12.5 feet directly behind the location where the body lay, there is a distinct possibility the bullet's trajectory was altered due to its striking or ricocheting off a natural or man-made obstruction. Therefore, search parameters were set which also allowed for this possibility.

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On September 12, 1995, Ft. Marcy Park was closed to the public and the initial search parameters were set by the search team utilizing the death scene photographs to determine the precise location where the body was discovered on July 20, 1993. Then laser sighting equipment was set on the berm and positioned at the approximate height where the exit wound to FOSTER'S head would have been (assuming he had been seated with his feet and legs directly in front of him following the natural slope of the berm at the time the fatal shot was fired). Stakes were driven into the ground along the laser sight line and a cord was stretched between the stakes to a distance of approximately 150 meters. This cord represented the logical flight path of an unimpeded bullet and was therefore used as the center line for the intended search area.

However, since Foster's head could have been turned to one side or the other when the shot was fired, similar lines were laid out along the outer limits of a 40 degree arc which was bisected by the center line. This arc represented the area of highest probability for the location of the bullet based on evidence available to the investigators and consultants.

The laser sighting device was utilized to scan the trees which stood within the 40 degree arc, to determine where the bullet might have struck a tree, or travelled through or between trees on various possible trajectories. The trunks and branches of trees within the high probability area were then searched visually and with metal detectors to determine whether the bullet could have been lodged therein. This search was accomplished with the use of a NPS utility truck equipped with a "cherry picker" which was capable of raising a searcher with a metal detector to heights of approximately 50 feet. In addition, any scars or marks on these trees which did not appear to be natural were tested by the FBI Lab to determine the presence or absence of lead residue.

Grid lines were then set up within the 40 degree arc parallel to the logical direction of travel and approximately 2 1/2 feet apart. The length of these grid lines varied and was dictated largely by the terrain and natural or man-made obstructions. The area between each of these grid lines was then searched with metal detectors in an effort to locate any lead objects within approximately 6 to 10 inches of the surface.

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The search was accomplished by passing the detector's search coil back and forth approximately 1 to 2 inches above the ground being searched. GRAHAM and SONDERMAN operated metal detectors at all times. Both are experts in the use of these instruments.

It was necessary for the searchers to carefully sweep the search coils over every inch of ground within the search area. They therefore swept the coils across and beyond the grid lanes so there was overlap coverage between the grid lanes. This procedure ensured that no area was overlooked. Once an area of lanes was searched, the lines were removed and new lines were set further along the ever-widening arc. Due to decades of unfettered growth of vines and underbrush in a large part of the search area, it was necessary to clear the brush and foliage in order to facilitate the metal detector search.

The above process was begun with a search of the berm area immediately surrounding the location where FOSTER'S body was found. From there the search continued within the 40 degree arc on the cleared plateau around and behind the Civil War cannon which points in a Northwesterly direction over the berm on which FOSTER'S body was discovered. This phase of the search took approximately two days to complete.

For the next two weeks the search continued along the Eastern berm of the Fort and down the sloping earthworks within the Fort. When the second interior plateau of the Fort was completely searched, the teams moved to the third plateau within the Fort which rises to meet the Southern berm. This third plateau is located in the area of the Fort which is nearest the paved parking lot in which FOSTER'S car was located by United States Park Police Investigators. After this interior area was searched, the areas located immediately to the East and South of the exterior Fort berms were cleared and searched. The slope of the Fort's exterior berm was so steep in places that it was necessary for the metal detector operators to repel down the outside of the berms in the process of conducting the search.

The area located to the East, between the Fort and Chain Bridge Road was one of the most densely overgrown areas in the Park. Vines, briars, weeds and other foliage formed a natural barrier covering this area up to a height of ten feet, which required several hundred man-hours to clear.

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Once the area was cleared, grid lines were set and the area was searched. This process continued over approximately the next two weeks until the entire 40 degree arc was searched out to a distance of approximately 175 meters with negative results.

Since the area of highest probability had been searched, the search was expanded to the next highest probability area by expanding the search arc to 60 degrees. This additional area was cleared and searched according to the procedure outlined above. When the search of this expanded area failed to locate the target bullet, the search area was again expanded to a 90 degree arc. This entire area was searched, including the accessible* trees that fell within this expanded arc, during the course of the next week and a half.

*[Some of the trees which fell within the expanded arc were inaccessible to the "cherry picker" do to the thickly forested area and rugged terrain. These inaccessible trees were searched visually.]

When the first search of the entire 90 degree arc failed to locate the target bullet, a second search of the highest probability areas was undertaken. To accomplish this second search, grids were laid out perpendicular to the original grids, and the highest probability areas within the 90 degree arc were searched again to a distance of approximately 125 meters. This second search required approximately a week and a half and was undertaken due to the possibility that variations in ground ionization or the large number of metal artifacts and debris buried in the park might have masked the presence of the target bullet. During this second search, deeper targets were unearthed and a lesser degree of discrimination was utilized in deciding whether to unearth a buried object. Also, the entire interior area of FT. MARCY was searched even though a portion of the Northwest area of the fort fell outside of the 90 degree search arc.

A section of SAUDI ARABIAN PRINCE BANDAR'S Residence Compound, which is located East of Fort Marcy Park just across Old Chainbridge Road (Route 123), fell within the intended search area. Due to sovereignty concerns, this area was excluded from the search. However, it should be noted that this area represented approximately 25% to 30% of the intended search area. In addition, the section of Old Chainbridge Road which fell

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within the intended search area was not searched because it had been repaved since July 20, 1993. This process included the grading and removal of the road's surface prior to repaving.

The center line was searched beyond the 175 meter line to the fence marking the outer boundary of the Park (approximately 300 meters). However, this search of the area beyond the 175 meter line was conducted without removing any of the ground covering or brush due to time constraints and environmental concerns expressed by the NPS. This search was cursory in comparison to the rest of the search. However, it did include a visual inspection of the trees to detect any indications of holes, scars or marks which may have been made by a bullet.

In an effort to preserve potential forensic evidence associated with any .38 caliber bullets recovered, all bullets which were possibly .38 caliber and all bullet fragments of indeterminate caliber were treated as the target bullet. Therefore, each possible .38 caliber bullet or fragment thereof, was photographed in place before it was recovered and bagged at the scene. The soil and grass surrounding the recovered bullet was also collected and bagged at the scene. Each of the above samples were taken into the custody of the WFO, ERT representative, and hand-delivered to the FBIHQ Lab, Firearms Unit, for ballistic evaluation and elemental analysis. These tests were performed on each of these recovered bullets in order to confirm or rule them out as the target bullet.

The FBI Laboratory, Firearms and Toolmarks Section, made an initial determination of whether or not there were sufficient ballistic characteristics (ie: diameter, weight, lands and grooves) present on each recovered bullet to identify it as a possible match with the spent cartridge recovered from the revolver. Then a Scanning Electron Microscope (SEM) elemental analysis was performed on each bullet to determine its composition in an effort to match it to the composition of the intact bullet recovered from the revolver. Finally, if the preceding tests were not determinative, the bullets were irradiated and spectrally analyzed to determine their exact elemental composition. This spectral analysis was used to determine the general time frame of the bullet's manufacture. If a bullet was determined to have been of modern manufacture, its composition was then compared to the composition of the intact

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bullet to determine if they were manufactured in the same batch.

One of the recovered bullets was determined to have been fired from a .38 caliber Colt revolver with six (6) lands and grooves with a left-hand twist, which is consistent with the revolver recovered from FOSTER'S hand. However, the FBI Laboratory determined the lands and grooves in the barrel of the revolver recovered from FOSTER'S hand were so worn and fouled with gunshot residue that they were incapable of causing the striations observed on this discovered bullet. Also, this recovered bullet was determined to be a "wad cutter", which is a low velocity, flat-nose bullet. The FBI Lab determined that Remington and Peters did not manufacture High Velocity cases with "wad cutter" bullets in them. For the above reasons this recovered bullet was ruled out as the bullet that caused the death of FOSTER.

As is indicated in the chart below, five (5) .38 caliber bullets were recovered along with sixteen (16) other modern bullets of various other calibers, sixty (60) Civil War period bullets and ten (10) bullet fragments which were so distorted that the caliber could not be determined definitively. In total, ninety-one (91) bullets were recovered during this search.

In addition to the bullets referenced above, over three thousand five hundred (3,500) other metal objects were recovered during this search. Of particular interest is the number of pull-tabs and bottle caps recovered - which exceeds one thousand five hundred (1,500). The electronic signature registered on the metal detectors for these items is nearly identical to that of the target bullet. This fact produced numerous "false-hit" signals throughout the search. Each of these items had to be unearthed, identified and recovered before the search could continue. The extremely high concentration, in the search area, of these items producing "false-hit" signals caused great delays in the progress of the search.

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RESULTS OF THE SEARCH AND NPS INVENTORY OF ARTIFACTS RECOVERED

ITEMS	Week							Total
	1	2	3	4	5	6	7	
.22 Cal. Bullets	1	1				7		9
.32 Cal. Bullets						1		1
.38 Cal. Bullets		1			2	1	1	5
.45 Cal. Bullets							4	4
Shotgun Slugs						1	1	2
Ballistic Fragments			10					10
.22 Cal. Cases	2	1	1	2		4	5	15
.32 Cal. Cases							2	2
.38 Cal. Cases		2	2	4	3			11
.45 Cal. Cases		1		2			5	8
Rifle Cases		2		2	4	4	1	13
Shotgun Cases	3	6	10	4	10	22	11	66
Civil War Minie Balls			7	9	19	11	14	60
Mortar Round						1		1
Pull Tabs	22	208	86	121	129	255	340	1161
Bottle Caps	5	56	44	47	57	126	96	431
Misc. Metal	29	226	199	139	139	209	518	1459
Coins	1	16	13	17	27	112	65	251
Misc. Items	4	18	25	17	21	10	6	101
Non-ballistic Civil War Artifacts		19	7	13	11	13	4	67
Totals	67	557	404	377	422	777	1073	3677

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The search was concluded on October 31, 1995, at which time Ft. Marcy Park was reopened to the public. In the end, 70 people assisted and approximately 2,700 man-hours were expended in carrying out this search of Fort Marcy Park with negative results.