


Sen. Banking Committee: Foster Death

Inquiry into USPP's Investigation

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103D CONGRESS 2d Session	SENATE	REPORT 103-000 Vol. I
<p>MADISON GUARANTY S&L AND THE WHITEWATER DEVELOPMENT CORPORATION WASHINGTON, DC PHASE</p> <hr style="width: 10%; margin: 10px auto;"/> <p>R E P O R T</p> <p>OF THE</p> <p>COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE</p> <p>ON THE</p> <p>INQUIRY INTO THE U.S. PARK POLICE INVESTIGATION OF THE DEATH OF WHITE HOUSE DEPUTY COUNSEL VINCENT W. FOSTER, JR.</p> <p>together with</p> <p>ADDITIONAL VIEWS</p> <div style="text-align: center; margin: 20px 0;">  </div> <p>[LEGISLATIVE DAY]</p> <hr style="width: 10%; margin: 10px auto;"/> <p>U.S. GOVERNMENT PRINTING OFFICE WASHINGTON : 1994</p>		
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UNITED STATES SENATE

INQUIRY INTO
THE UNITED STATES PARK POLICE INVESTIGATION OF THE DEATH
OF VINCENT W. FOSTER, JR.

January 3, 1995

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

One Hundred Third Congress
Second Session

PREFACE

- On June 21, 1994, the Senate adopted Senate Resolution 229, which authorized the Senate Committee on Banking, Housing, and Urban Affairs ("the Committee") to conduct oversight hearings into whether, among other things, "improper conduct" occurred regarding the United States Park Police ("Park Police") investigation into the death of Deputy White House Counsel Vincent Foster and "the way in which White House officials handled documents in the office of [Mr.] Foster at the time of his death" (1)¹

The Senate's mandate to the Committee reflected two clear goals. First, it allowed the Committee to fulfill the Senate's oversight function by providing a full and public accounting of the government's activities. To this end, Senate Resolution 229 authorized the Committee to issue subpoenas and orders for the attendance of witnesses and the production of documents or physical evidence, to take sworn depositions and to require witnesses to answer written interrogatories under oath. (2) Second, it encouraged the Committee "to coordinate, to the extent

¹ The Resolution also authorized the Committee to conduct hearings into whether improper conduct occurred regarding the "communications between officials at the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association" (S. Res. 229, Section 1(1)(A), pp. 1-2). The Committee simultaneously published a separate volume on that matter.

practicable, its activities with the investigation" of the Office of the Independent Counsel.(3)

On June 30, 1994, Independent Counsel Robert B. Fiske, Jr. concluded his investigation into the death of Mr. Foster. His office interviewed approximately 125 people -- including Mr. Foster's family, friends and colleagues -- reviewed documentary and photographic evidence, and performed serological, handwriting and fingerprint analyses. After gathering and analyzing this evidence, Mr. Fiske's report concluded that:

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. This conclusion is endorsed by all participants in the investigation, including each member of the Pathologist Panel.

We found no evidence that issues involving Whitewater, Madison Guaranty, [Capital Management Services] or other personal legal matters of the President or Mrs. Clinton were a factor in Foster's suicide. While Foster did confide to family and friends in the weeks prior to his death that certain matters were troubling him, we have learned of no instance in which Whitewater, Madison Guaranty, [Capital Management Services] or other possible legal matters of the Clintons were mentioned. Moreover, in the spring and summer of 1993, Whitewater and Madison Guaranty related matters were not issues of concern either within the White House or in the press.(4)²

² The Office of the Independent Counsel also acknowledged that:

the fact that Foster never expressed a concern about Whitewater or Madison to anyone does not mean that he did not, in fact, have such a concern. Thus, we cannot conclusively rule out such a concern as a possible contributing factor to his depression. What we can conclude is that there is no evidence that he did have such a concern against a background in which Whitewater/Madison issues were neither a matter of expressed concern in the White House, nor the subject of media attention.

(Fiske Report, pp. 19-20 (footnote omitted)).

Mr. Fiske, however, had not yet completed his investigation of the way in which White House officials handled documents in Mr. Foster's office at the time of his death. In a July 15, 1994, letter to the Committee's Chairman and Ranking Minority Member, Mr. Fiske wrote:

As I advised you in our meeting today, our investigation into the handling of documents in Vincent Foster's office is continuing. There are questions that are unanswered at this point which we must do our very best to try to resolve before we can complete the investigation.

We believe that public hearings on the subject of the handling of documents in Mr. Foster's office while this investigation is continuing could prejudice our investigation.(5)

Accordingly, the Committee postponed its investigation of the handling of documents in Mr. Foster's office.³ Consequently, the scope of the Committee's investigation and its July 29, 1994, hearing was limited to the Park Police investigation of Mr. Foster's death. The scope of this Report and the materials released with it will be similarly limited to the subject matter of that hearing.

In reviewing the Park Police investigation of Mr. Foster's death, the Committee deposed 12 witnesses between July 12, 1994 and July 26, 1994, taking over 1,460 pages of sworn testimony. The Committee also reviewed photographs taken at the death scene by the Park Police and during Mr. Foster's autopsy; the medical examiner's autopsy report, report of investigation and toxicology reports; the notes and investigative, evidentiary and final reports of the Park Police; notes of FBI agents' interviews with witnesses at the death scene and with Mr. Foster's family, friends and colleagues; relevant documents voluntarily provided by the Office of the Independent Counsel, the Department of Interior and the Department of Treasury; reports of the Fairfax County Fire and Rescue

³ Consistent with Senate Resolution 229, the Chairman and Ranking Minority Member of the Committee delayed the public hearings into this phase of the Committee's investigation to avoid, among other things, disclosing prematurely the focus of the Independent Counsel's investigation or creating the risk of tailored testimony by prematurely disclosing documents and testimony relevant to the Independent Counsel's investigation.

Department personnel who responded to the death scene on July 20, 1993; and the June 30, 1994 report of the Independent Counsel.⁴

In completing the task assigned by the Senate, the Committee proceeded in the bipartisan spirit intended by the Senate when it adopted the Resolution. Moreover, the Committee is aware of the fact that the Foster family continues to grieve over Mr. Foster's tragic death.⁵ Thus, the Committee has been sensitive

⁴ Due to the short duration of the Committee's investigation and various logistical difficulties, the Committee did not interview or depose Park Police Detective Pete Markland (who was subpoenaed but failed to appear), Park Police Chief Robert Langston or the witness whom the Office of Independent Counsel granted confidential status ("the Confidential Witness"). No effort was made to interview Mr. Foster's wife, children or immediate family and friends because of their ongoing grief over Mr. Foster's death and because such interviews would not have furthered the Committee's review of the Park Police investigation. Instead, the Committee relied on statements previously made by Detective Markland, the Confidential Witness, and Mrs. Lisa Foster to the Park Police and the Office of Independent Counsel. The Confidential Witness was deposed by several members of the House of Representatives, but the Committee did not participate in this deposition because the Committee's majority staff was not invited to do so.

⁵ On the first anniversary of Mr. Foster's death, just nine days before the Committee held its hearing on the Park Police investigation, the Foster family published a statement which read in part:

The Independent Counsel's Report on Vince Foster's death confirms what his family has long believed -- that deep depression, which we never will fully understand, caused Vince to take his life. We also concur that the Whitewater affair had nothing to do with his death.

Vince's family appreciates the sensitive manner in which the Independent Counsel, lawyers working with him, and the FBI handled this investigation. Their efforts to find the truth were thorough and honest, and the family believes that questions as to how and why Vince died are now answered as best they can be. There is now no justification for painful, repetitious examination of these issues. The principal advocates for doing this appear chiefly motivated by mean-spirited partisanship; they certainly care not at all for the feelings of Vince's family, particularly those of his children who have suffered greatly. We are particularly appalled by the

(continued...)

to the suffering of the Foster family while discharging the responsibility delegated to it by the Senate to publicly review the Park Police investigation of Mr. Foster's death.⁶

⁵(...continued)

shameful statements on the House floor by a legislator who, in our view, is purposefully employing outrageous innuendo and speculation for political ends. It is so unfair for the family's privacy and emotions to be pawns in a partisan struggle.

(Statement of Vincent Foster's Family, July 20, 1994).

⁶ Several Committee members, such as Senator Hatch, expressed concern about the impact of the hearing on the Foster family:

I know this has to be a terrible ordeal for the Foster family and my heart goes out to them. It is unfortunate that the tragic events of last summer must be the subject of conjecture. The Senate has instructed this Committee to review this matter, and I commend Senator Riegle and Senator D'Amato for their willingness to comply with the Senate's instructions. This is a disagreeable facet of Washington life and I want to express my remorse to Mrs. Foster and the children and friends.

(Senator Hatch, 7/29/94 Hrg. pp. 94-95).

Similarly, Senator Bryan stated:

I'm hopeful . . . that today's hearing focusing on the tragic death of Vincent Foster can be conducted in a manner which [will] not unnecessarily add to the personal grief his family has already endured. This is not the time, nor the place for sensationalism. I did not know Mr. Foster but from what I've heard about him, he was a good man who came to Washington to serve his President and his country.

(Senator Bryan, 7/29/94 Hrg. p. 71).

Senator Campbell suggested truncating the Senate investigation:

(continued...)

SUMMARY

The evidence overwhelmingly supports the conclusion of the Park Police that on July 20, 1993, Mr. Foster died in Fort Marcy Park from a self-inflicted gun shot wound to the upper palate of his mouth.⁷ The Department of Justice, the

⁶(...continued)

These hearings begin with the investigation of Vincent Foster's suicide and that should turn the stomach of any caring American. I really believe we should drop that whole issue and it's obvious we're not going to but we should for the sake of Vince Foster and his family. That was their specific wish. The independent counsel, Mr. Fiske, concluded that this was a suicide, the family is satisfied with the Fiske investigation and it would seem to me, rather than flogging the issue, we should be ashamed of ours[elves] and let the man's family live at peace and let him rest in peace.

(Senator Campbell, 7/29/94 Hrg. pp. 86-87).

⁷ Several Committee members, including Senators Hatch and Bennett, announced at the hearing that they had concluded that Mr. Foster committed suicide. Senator Hatch said:

There is absolutely no credible evidence to contradict the Fiske Report's conclusion that Vincent Foster took his own life and it happened in Fort Marcy Park. There is no credible evidence to the contrary. I suspect conspiracy theorists will always differ with this conclusion and little this Committee does is going to muffle their speculation.

(Senator Hatch, 7/29/94 Hrg. p. 95).

Senator Bennett took a similar position:

I will be happy to stipulate that Vincent Foster committed suicide. There was a time when the rumors that were in the press led me to believe there was some credence to an additional theory. I find no possible justification for that now, and I am one Senator who's willing to say this hearing should not be about whether or not Vincent Foster committed suicide.

(Senator Bennett, 7/29/94 Hrg. p. 72).

Federal Bureau of Investigation ("FBI") and the Office of the Independent Counsel reached the same conclusion after conducting their own investigations of Mr. Foster's death.

Although some aspects of the Park Police investigation varied from standard procedures for conducting a death investigation, the Committee found no evidence that any variances in the Park Police investigation affected the ultimate conclusion that Mr. Foster committed suicide at Fort Marcy Park.

BACKGROUND

After President Clinton's inauguration on January 20, 1993, Mr. Foster assumed his position as Deputy White House Counsel. Mr. Foster lived with his sister, Assistant Attorney General Sheila Foster Anthony, and her husband, former Congressman Beryl Anthony, while Mr. Foster's new home in Washington, D.C. was being renovated. During the two and one-half months Mr. Foster lived with his sister, she noticed that he was working long and hard hours, typically leaving for work between 7:00 a.m. and 8:00 a.m., and returning home between 10:00 p.m. and 11:00 p.m. He worked Monday through Saturday and was on call on alternating Sundays.(6)⁸ The fact that no secretaries worked in the White House Counsel's office during the first few weeks of the Administration added to Mr. Foster's workload. Mr. Kennedy also noticed that Mr. Foster had lost weight and seemed "exhausted and fretful." (7) Though Mr. Foster was no stranger to pressure, Mrs. Foster noted that his White House work schedule did not allow him to relax by jogging or spending time with his family as he had in Arkansas.(8)

Mr. Foster's longtime doctor and friend in Little Rock, Dr. Larry Watkins, also noticed changes in Mr. Foster. Shortly after the November 1992 Presidential election, Dr. Watkins noticed that Mr. Foster went through a period of increased stress and insomnia. On December 31, 1992, Dr. Watkins prescribed Restoril, a mild sleeping pill.(9) He was later told by Mrs. Foster that Mr. Foster had

⁸ William Kennedy, Associate White House Counsel and former partner at the Rose Law Firm, described Mr. Foster's White House routine as arriving at the White House at about 8:00 a.m., attending a staff meeting at 9:00 a.m., and spending the rest of the day in the office. Mr. Foster rarely left the office for lunch, eating instead in the White House cafeteria. Mr. Kennedy recalled that Mr. Foster frequently stayed at the White House until 10:00 p.m. or 11:00 p.m. When his family moved to Washington, D.C., Mr. Foster began leaving at about 7:00 p.m., but took work home with him. (OIC Document 000254).

improved.(10)⁹ Dr. Watkins also recalled a conversation with Mr. Foster during which Mr. Foster said he thought he was fighting depression and complained of loss of appetite and insomnia. Dr. Watkins prescribed 50 milligram tablets of the tricyclic anti-depressant drug Desyrel; also known generically as Trazadone.(11)¹⁰

On June 5, 1993, when Mrs. Foster arrived in Washington, she noticed that her husband had lost weight and looked "awful."(12) Mr. Foster seemed tense and anxious about work-related matters and appeared to be under stress.(13) Mrs. Foster recalled one night during which he was sweating profusely and feeling sick.(14) Mr. Foster expressed some of his concerns in a note he had written about one week to ten days before his death. Mrs. Foster recalled that she had urged her husband to write down his concerns and she believed that her husband wrote the note in response to this suggestion.(15) The note, which was torn into 27 pieces when it was discovered six days after Mr. Foster's death, reads as follows:

I made mistakes from ignorance, inexperience and overwork

I did not knowingly violate any law or standard of conduct

No one in the White House, to my knowledge, violated any law or standard of conduct, including any action in the travel office. There was no intent to benefit any individual or specific group

The FBI lied in their report to the AG

⁹ On the night of July 20, 1993, Mrs. Foster called Dr. Watkins and notified him of Mr. Foster's death. Dr. Watkins said he was surprised at the suicide, but concluded that it was due to the depression Mr. Foster had described to Dr. Watkins in their telephone conversation the day before. According to Dr. Watkins, Mrs. Foster told him that her husband had taken one Desyrel tablet on the night of July 19, 1993. (OIC Document 000315).

¹⁰ Dr. Watkins said that he chose Trazadone because it has no side effects and is helpful for insomnia. Trazadone takes about 10 to 14 days to take effect on depression, but Dr. Watkins did not believe Mr. Foster's depression was severe. According to Dr. Watkins, the pills could not have been the cause of the suicide and opined that Mr. Foster's depression must have been acute. (OIC Documents 000313-000314).

The press is covering up the illegal benefits they received from the travel staff

The GOP has lied and misrepresented its knowledge and role and covered up a prior investigation

The Ushers Office plotted to have excessive costs incurred, taking advantage of Kaki and HRC

The public will never believe the innocence of the Clintons and their loyal staff

The Wall Street Journal editors lie without consequence

I was not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport.(16)¹¹

During the same period when he wrote the torn note, Mr. Foster also asked his brother-in-law, former Congressman Beryl Anthony, to recommend lawyers who might represent Mr. Foster in the event of a Congressional investigation into the firing of seven White House Travel Office employees.(17) Mrs. Foster also recalled that her husband was compiling a list of attorneys for this purpose, but she did not believe he contacted any of the attorneys Mr. Anthony recommended.(18) Denver attorney James Lyons, however, had discussed with Mr. Foster the possibility of Congressional hearings and believed Mr. Foster was considering asking Mr. Lyons to be his personal attorney.(19)¹²

Many of Mr. Foster's coworkers, including former White House Counsel Bernard Nussbaum, noted that Mr. Foster's productivity at the White House had begun to decline in the weeks prior to his death.(20) Mr. Nussbaum noted that June and July of 1993 were a particularly busy time at the White House Counsel's Office, but that Mr. Foster was largely uninvolved in important matters such as the selection of a new FBI Director.(21) Mr. Foster's executive assistant, Deborah Gorham also noticed that Mr. Foster's productivity declined significantly during this period.(22) Ms. Gorham related that during the week

¹¹ A Park Police transcription of the torn note identified the word "loyal" as "legal." (Interior Document I375).

¹² According to Mr. Lyons, Mr. Foster had also contacted attorneys James Hamilton and Susan Thomases regarding representation. (OIC Documents 000320-000321).

before Mr. Foster's death whenever his wife or children called they would ask Ms. Gorham, "How's he doing today?"(23)

Shortly before Mr. Foster's death, Mrs. Foster and Mrs. Anthony remember Mr. Foster informing them that he was waking up every two hours at night.(24) During the last six weeks of his life, Mr. Foster lost weight and his face became gray and drawn.¹³ Mrs. Foster and Mrs. Anthony remembered Mr. Foster confiding to them separately that he was considering resigning from his position at the White House, because he felt that the job was not right for him.(25)¹⁴

Mrs. Anthony spoke with Mr. Foster by telephone on July 16, 1993, just four days before his death. She noticed that Mr. Foster's voice was strained -- reminding her of the strain in their father's voice during his periods of depression -- and that he lacked any sense of humor.(26)¹⁵ Mr. Foster admitted to his

¹³ Although former Associate Attorney General Webster Hubbell had conversations with Mr. Foster about Mr. Foster's difficulty sleeping, Mr. Hubbell said that he noticed no physical change in Mr. Foster's appearance with the exception of a 10-15 pound of weight loss. According to Mr. Hubbell, this weight loss began when Mr. Foster came to Washington and was caused by Mr. Foster's long hours and strange eating schedules. According to Mr. Hubbell, weight loss was not unusual at the White House considering the hours and stress. (OIC Document 000125). Dr. Watkin's records reflect that Mr. Foster weighed 200 pounds in 1987, 207 pounds in August 1990, and 194 pounds on December 31, 1992. (OIC Document 000314). According to Mrs. Anthony, Mr. Foster gained weight after coming to Washington in 1993, due to a diet consisting largely of fast food, then lost the weight quickly. (OIC Document 000201). According to Mr. Foster's autopsy report, he weighed 197 at the time of his death. (Fiske Report, Exhibit 8).

¹⁴ Mr. Kennedy did not recall Mr. Foster ever mentioning that he wanted to return to the Rose Law Firm. Mr. Kennedy noted that some of the firm's clients were concerned when its key senior litigators -- Mr. Foster, Mrs. Hillary Clinton and Mr. Hubbell -- all left the firm simultaneously. Mr. Foster was not alienated from his former partners but, according to Mr. Kennedy, there were some feelings of abandonment among some of the remaining partners at Rose. (OIC Document 000250).

¹⁵ Mrs. Anthony heard the same strain in Mr. Foster's voice while watching his May 8, 1993, commencement address at the University of Arkansas Law
(continued...)

sister that he was battling depression. When she offered to help him by contacting a psychiatrist for him, he expressed concern that his security clearance could be jeopardized.⁽²⁷⁾¹⁶ He asked her to recommend a place on

¹⁵(...continued)

School. Mrs. Foster described her husband's demeanor while delivering the address as a very good example of how he appeared when he was suffering from an anxiety attack. (OIC Document 000203).

During the address, Mr. Foster said, "The reputation you develop for intellectual and ethical integrity will be your greatest asset or your worst enemy. You will be judged by your judgment." He later added, "Dents to the reputation in the legal profession are irreparable." (OIC Documents 000763, 000764).

¹⁶ During the hearing, Senator Boxer noted that:

Four days before he took his life, Mr. Foster told his sister he was hesitant to see a psychiatrist because it could jeopardize his security clearance. I'm pleased that the [Clinton] administration has initiated a review into the policy of interpreting a person's visit to a psychiatrist [as] a reason to deny or revoke a security clearance.

(Senator Boxer, 7/29/94 Hrg. pp. 76-77).

On November 16, 1994, the Office of Personnel Management ("OPM") published a notice announcing proposed revisions of the three standard forms used by all Federal agencies to collect background information, including the form used for national security positions. With respect to mental health inquiries, OPM offered the following comment:

Some individuals apparently have the impression that consulting a mental health professional can jeopardize one's ability to obtain or retain a security clearance. Not only is this impression incorrect, but seeking such help can be a positive factor in a clearance adjudication.

OPM also noted that the revised standard forms will limit mental health inquiries to positions in which there is access to national security information, will exempt from reporting requirements certain types of counseling ("marital, family and grief counseling not related to violent acts"), and will limit reporting requirements to counseling received within seven years of the submission of the form. (59 Fed. Reg. 59,260-59,261 (1994)).

Maryland's Eastern Shore where he and his wife could relax for a weekend. After the conversation ended, Mrs. Anthony sought out the names of three psychiatrists she could recommend to her brother.(28) Later that day, Mrs. Anthony called one of the psychiatrists, then called her brother to furnish him with the psychiatrists' names and to encourage him to schedule an appointment with one of them.¹⁷ Mr. Foster said he would consider that course of action over the weekend of July 17-18, 1993.(29)¹⁸

On that same day, Mr. Foster complained to his wife that his heart had been pounding and that his blood pressure was somewhat high.(30) Mrs. Foster recalled that her husband had had anxiety attacks in the past that had led him to wear a heart monitor, so she told her husband that she would call their family physician, Dr. Watkins.(31) Mrs. Foster also arranged for them to vacation at an inn on Maryland's Eastern Shore during the weekend of July 17-18.(32) That weekend, the Fosters visited with the Hubbells and old friends Mike and Harolyn Cardoza. The Fosters joined this group for dinner, tennis and golf. Although Mr. Foster seemed relaxed, Mr. Hubbell recalled being worried about him and Mrs. Foster felt that the weekend had not gone particularly well.(33)

On July 19, 1993, White House aide Marsha Scott walked from her office in the Old Executive Office Building to Mr. Foster's office in the West Wing to

¹⁷ According to the psychiatrist Mrs. Anthony contacted, Mrs. Anthony stated that her brother was extremely depressed and in need of psychological counseling. Mrs. Anthony also stated that her brother occupied a very sensitive position at the White House and was dealing with top-secret matters daily, and that his depression was directly related to highly sensitive and confidential matters. The psychiatrist believed that Mr. Foster desperately needed counseling but was unable to speak freely due to the confidential issues to which Mrs. Anthony had alluded. The psychiatrist therefore told Mrs. Anthony that he would see Mr. Foster "off the record" for one counseling session, hoping that he could at least provide basic educational therapy regarding the causes and methods of coping with depression. Mr. Foster never contacted the psychiatrist. (OIC Documents 000300-000302).

¹⁸ After Mr. Foster was found dead in Fort Marcy Park on July 20, 1993, the Park Police recovered from Mr. Foster's wallet a piece of paper listing the names of three psychiatrists. (Interior Document I35). Both the Park Police and the FBI contacted these psychiatrists after Mr. Foster's death. None of the doctors recalled being contacted by Mr. Foster. (Rolla, 7/29/94 Hrg. p. 31; Interior Document I35; OIC Documents 0000292-000293, 000301).

visit her longtime friend. She recalled that on that particular afternoon Mr. Foster seemed out of character; since he did not joke with her as he normally did. In hindsight, Ms. Scott detected "a sense of detachment."(34)

Later that day, Mrs. Anthony called her brother. Mr. Foster said that he was feeling pretty good and that he had enjoyed his weekend with friends on the Maryland shore. He said that he was not ready to see a psychiatrist in Washington, but that he had called his doctor in Little Rock and that he had gotten a prescription for Trazadone, an anti-depressant.(35)¹⁹

Mrs. Foster recalled that her husband arrived home on July 19 at about 7:45 p.m. He later received a call from President Clinton inviting him to the White House to see a movie, but declined the invitation. At Mrs. Foster's request, Mr. Foster took one 50 milligram dose of Trazadone.(36) She did not know if he took any other pills.

On the morning of July 20, 1993, Mrs. Foster recalled her husband standing stiffly in the kitchen prior to departing for work. At about 8:30 a.m., Mr. Foster drove the family's 1989 light gray Honda with Arkansas license plates to the White House, dropping off one of his sons and his daughter along the way.(37) According to Ms. Gorham, he arrived at work uncharacteristically late.(38)

Mr. Foster attended a staff meeting in the White House at about 9:00 a.m. Mr. Kennedy spoke with Mr. Foster briefly after the meeting. Mr. Kennedy recalled that Mr. Foster was working on an analysis of the impact of tort reform on the Administration's health care proposal and was also dealing with press reports regarding the Travel Office matter. Mr. Kennedy and Mr. Foster tried unsuccessfully to reach each other by telephone later that morning.(39)

Mr. Foster later attended the Rose Garden ceremony at which President Clinton announced the nomination of Louis Freeh as Director of the FBI. Linda Tripp, Executive Assistant to Bernard Nussbaum, noticed that Mr. Foster seemed "distracted and a little down" at the ceremony.(40) Ms. Gorham noticed a loss of concentration on the part of Mr. Foster that morning.(41) Additionally, Mr.

¹⁹ The pharmacist's records indicate that the pharmacy filled a prescription for Mr. Foster of 30 tablets of Desyrel, generic name Trazadone, of 50 milligrams each. The pharmacist recalled that the medicine was delivered to Mr. Foster's house before 6:00 p.m. that day. (OIC Document 000191). This drug was not found in Mr. Foster's blood during the July 26, 1993 analysis, but was discovered along with diazepam and nordiazepam in subsequent serological analyses conducted by the FBI. (Fiske Report, p.43 and Exhibit 8).

Foster left the office in the middle of the afternoon, which Ms. Gorham stated he had never done before.(42)

On the afternoon of July 20, 1993, Mr. Kennedy, Brantley Buck, Gordon Rather and Mr. Lyons all tried to reach Mr. Foster.(43) Little Rock lawyer Gordon Rather, a longtime friend of Mr. Foster, tried to reach Mr. Foster by telephone to discuss matters related to the American Board of Trial Advocates' efforts to encourage the Clinton Administration to fill Federal trial court vacancies.(44) Mr. Lyons had called to confirm that he was meeting with Mr. Foster the next day.²⁰ Mr. Buck was returning Mr. Foster's July 19, 1993, telephone call. Mr. Foster apparently tried to return some telephone calls on July 20, 1993, but he did not speak with Mr. Lyons, Mr. Rather, Mr. Kennedy or Mr. Buck.(45)²¹

At about 12:00 or 12:30 p.m. Mr. Foster told Betsy Ponds that he would have lunch at his desk. She and Ms. Gorham then went to the White House cafeteria to get a cheeseburger, french fries and coke for him. There were also M&Ms on his tray. He ate lunch in his office. At about 1:00 p.m., he came out of his office and said, "I'll be back. There are some M&Ms left in my office." As He left without his briefcase, and there did not appear to be anything unusual

²⁰ According to Mr. Lyons, he and Mr. Foster had plans to meet in Washington on July 21, 1993, to discuss the matter. (Interior Document I52; OIC Document 000320-000322).

²¹ FBI Special Agents Lawrence Monroe and William Colombell testified at the hearing and explained in an August 3, 1994, letter to the Committee that the Office of the Independent Counsel had investigated whether Judge David Hale had attempted to call Mr. Foster on July 20, 1993. The Independent Counsel has used a grand jury subpoena to gather information about whether information about whether Mr. Foster may have learned about the execution of the search warrant. (August 3, 1994, Letter to the Chairman and Ranking Minority Member) (emphasis added). Rule 6(e) of the Federal Rules of Criminal Procedure, however, precludes immediate disclosure of the information gathered pursuant to the grand jury subpoena.

The Committee attempted to investigate the matter of this potential contact. The Justice Department agreed to allow its personnel in the United States Attorney's Office in Little Rock to be deposed by the Committee, but the Committee has not yet obtained additional relevant information.

about his emotional state.(46) Mr. Foster never returned to the White House.²²

Mrs. Foster tried to call her husband at about 5:00 p.m., but Ms. Gorham told her that he was not available to come to the telephone.(47) Mrs. Foster had no contact with her husband after he left for work that morning.²³

THE INVESTIGATION

The Death Scene Investigation

A. The Discovery of Vincent Foster's Body

A construction worker driving a Thrifty rental vehicle stopped at Fort Marcy Park²⁴ to urinate at approximately 4:15 p.m. He recalled seeing what he

²² One man stated that on July 20, 1993, between 4:15 and 4:30 p.m., he drove past Fort Marcy Park on his way home from work. He was driving north on the George Washington Parkway when he saw a dark charcoal-gray, metallic, Japanese four-door sedan cut from the left northbound lane into the right lane and turn abruptly into Fort Marcy Park. The car was occupied by a single white male and he remembered the car having an out-of-state license tag with blue letters, probably from Arkansas or Ohio, with the state lettering in the lower right corner. (Interior I40; OIC Documents 000151-000153).

²³ None of Mr. Foster's neighbors who were interviewed by the FBI saw Mr. Foster return to his residence on July 20, 1993 between the hours of 1:00 p.m. and 5:30 p.m. (See OIC Documents 000290-000291). Mrs. Foster doubts that he returned home during the day to retrieve the gun with which he killed himself later that day, but believes instead that he took the gun with him in his briefcase that morning.

²⁴Fort Marcy Park, located between the George Washington Parkway and the Potomac River near McLean, Virginia, is a national park under the jurisdiction of the Department of Interior, which oversees the United States Park Police. The Park Police have jurisdiction over crimes committed on Federal park land. (Hume, 7/22/94 Dep. pp. 170-172).

Neither Mrs. Foster nor Ms. Anthony ever recall hearing about Fort Marcy Park prior to learning of Mr. Foster's death there. (Interior Document 49; OIC
(continued...))

described as a 1988-1990 Honda sedan with a light or beige interior and Arkansas license plates parked in the lot. As he walked by the Honda, he saw a dark blue jacket draped over the driver's seat and a leather briefcase or folder on the passenger's side. He left the park at about 4:30 p.m.(48)²⁵

Between 5:30 and 5:45 p.m., a man to whom the Office of the Independent Counsel later granted confidential status -- the Confidential Witness -- stopped to urinate in Fort Marcy Park.²⁶ He stated that he parked his white utility van between a small two-door Japanese-make sedan, either light blue or tan in color, and a white two-door Honda with a blue interior. Both cars were unoccupied.(49) He said that he walked about 200 yards into the park before finally urinating.(50)

²⁴(...continued)

Document 000202, 000281).

²⁵ When shown photographs of the Foster car, however, he stated that he believed the car he saw was older than the car in the photograph, since he remembered believing that the car was not a vehicle typically driven by a lawyer. (OIC Document 000150). When he was shown color panels and a Honda brochure, he said that he believed the car he had seen was a four-door sedan, but older, shorter and less glossy than the photograph of the Foster car. (OIC Documents 000269-000270).

²⁶ The Confidential Witness agreed to cooperate with the Office of the Independent Counsel only on the condition that his identity be kept secret. The Office of the Independent Counsel agreed to this condition, and granted him confidential status. (OIC Document 000165). The identity of the Confidential Witness was not revealed to the Committee and the Confidential Witness was not interviewed by the Committee or the Park Police.

The Confidential Witness was deposed by three members of the House of Representatives on July 28, 1994. The Representatives had invited members of the Committee's minority staff to attend the deposition. The minority staff declined the invitation, because the Representatives would not permit the Committee's majority staff to attend the deposition and question the Confidential Witness. During the deposition, the Confidential Witness stated, "I will not go before any Senate and be hammered by attorneys. I will not." (Confidential Witness, 7/28/94 Dep. p. 48) (deposition taken by members of the House of Representatives).

As he was urinating, he said he noticed something among the plants and walked over to see what it was. When he got closer, he realized he was looking at a human being. He explained that he walked within a few feet and saw the body of a white male in a white dress shirt, gray pants, black shoes and no suit jacket. The body was lying on its back on a 45 degree angle slope, head uphill; body straight, feet together, hands at its sides with the palms open and up.(51)²⁷ There were traces of blood near the nostrils and mouth. The eyes were glazed and partially open. On the body's right shoulder were light purple colored stains which the Confidential Witness thought appeared to be vomit or wine spilled from a wine cooler bottle he said was lying near the body.(52)²⁸ The Confidential Witness thought the man might have been killed by a blow to the head,(53) and thought that if a shot had been fired it would have been heard at the home of a "rich Saudi Arabian" which was visible from the cannon

²⁷ Park Police Investigator John Rolla testified that Mr. Foster's palms were facing up, with the right thumb pinched by the trigger guard and the gun barrel pointing away from the webbing of the hand between the thumb and index finger. (Rolla, 7/21/94 Dep. pp. 97-98). Fairfax County paramedic George Gonzalez testified that the photographs shown to him by the FBI depicted the palms facing upward, and that he was not shown a picture that included a gun. (Gonzalez, 7/20/94 Dep. pp. 76-77). His recollection was that the palms were facing downward, and that it was difficult to see the gun initially. (Gonzalez, 7/20/94 Dep. pp. 37-39, 76-77).

²⁸ Investigator Rolla saw what he thought was an empty wine cooler bottle lying about 15 feet from Mr. Foster's body. He recalled that the label was faded and believed that the bottle had been at that location for an extensive period of time. (OIC 000224). The bottle was not recovered by the Park Police.

near where the body was found.(54)²⁹ He stated that he did not see a gun in Mr. Foster's hands.³⁰

The Confidential Witness decided to return to his van and find a telephone. As he walked back to his van, he noticed inside the Honda a suit jacket matching the color of Mr. Foster's pants, which the Confidential Witness described as "light gray" in color. The jacket was thrown over the passenger's side seat. He also said that he observed a "four pack" of wine coolers and perhaps a briefcase inside the car.(55)

²⁹ A security officer and the chief of security at the nearby Saudi Arabian Ambassador's residential compound did not hear any shots fired on that date. They noted that heavy construction -- involving concrete trucks and other heavy equipment -- was underway at the compound on July 20, 1993. The construction noise, along with the traffic noise from Chain Bridge Road and aircraft noise from jets flying to and from National Airport, made it unlikely that any of the security officers could have heard a gunshot from the park. If a gunshot had been heard, it would have been recorded in the security force's log, but there was no recording of any such incidents at Fort Marcy Park or at the compound on July 20, 1993. (OIC Documents 000229, 000246-000247).

³⁰ Park Police Officer Kevin Fornshill also did not notice a gun in Mr. Foster's hand until someone pointed it out to him. (Fornshill, 7/12/94 Dep. pp. 21, 23, 77-78; OIC Documents 000205-000206). Fairfax County Fire Department Technician Ralph Pisani never noticed the gun. (OIC Documents 000016, 000172).

The Confidential Witness also noted that he was not looking for a gun, that there was heavy foliage around the body, that he only looked at the body for a few seconds and that he looked only from a position approximately three feet above Mr. Foster's head. (OIC Documents 000140-000141). At one point, he stated that he was fixated on the face, that he could not recall the exact position of the thumbs, and that a gun could have been present in Mr. Foster's hand -- even though he did not see one. (OIC Document 000167).

In his deposition, the Confidential Witness testified that "based on [the FBI agents'] explanation of how the gun was being held, I conceded that all that was visible was the trigger guard on his thumb, and the dense foliage that I could have missed seeing it." He emphasized, however, that "[t]here was no gun in [Mr. Foster's] hand" or "next to the body." (Confidential Witness, 7/28/94 Dep. pp. 2, 5).

The Confidential Witness got into his van and drove to nearby Turkey Run Park, where he saw two men dressed in Park Service uniforms. The Confidential Witness told one of the men that he had seen a dead body near one of the cannons and asked one of the men to call the police. The Confidential Witness then drove away.(56) The Park Service employees, who had recently finished working at the National Airport Maintenance Yard and a private home in nearby McLean, had been drinking beer in the Turkey Run Maintenance Yard when the white van approached. The Park Service employee who had spoken to the Confidential Witness then went to a nearby pay telephone and relayed the Confidential Witness' information to the police.(57)³¹

The Fairfax County Public Safety Communications Center received a 911 emergency call at approximately 6:00 p.m. The Park Service employee, who did not identify himself, reported that a man driving a white contractor's van had driven to Turkey Run Park and informed him that there was a dead body lying by a cannon in Fort Marcy Park.(58) After speaking to the police, he and his co-worker left the area.³² The dispatcher notified the Park Police and the

³¹ The identity of the Park Service employee who made this telephone call is known to the Committee, but has been redacted by the Office of the Independent Counsel from the documents it provided to the Committee. The Park Service employee has requested that his name not be disclosed publicly.

³² The timing of the events is roughly consistent. The Park Service worker recalls the Confidential Witness' white van arriving at Turkey Run Park at about 5:45 p.m., and remaining about 30 seconds before leaving. (OIC Documents 000094-000095). The other Park Service employee recalled the white van arriving sometime between 5:30 p.m. and 6:00 p.m. (OIC Document 000111). The Park Service employee called the Fairfax County Public Safety Communications Center at 5:59 p.m. (OIC Document 000085). His call was transferred to the Park Police at 6:03 p.m. (Interior Document I16).

The Confidential Witness estimated that he arrived in Fort Marcy Park between 5:30 p.m. and 5:45 p.m., left after about 10 minutes, drove approximately two miles to Turkey Run Park, had a brief conversation with a Park Service employee about the location of the body, then drove away. (OIC Documents 000105, 000109-000110, 000138, 000141-000142).

The Park Service employee's description of the Confidential Witness and the white van closely resembles a separate description given of the witness. (See OIC Documents 000096, 000113-000114, 000134-000135) When shown the
(continued...)

Fairfax County Emergency Response Team of the report of a dead body in the park.³³

A Fairfax County Emergency Response Team drove from its station in McLean down the George Washington Parkway to Fort Marcy Park.³⁴ Officer Fornshill was at the Central Intelligence Agency's ("CIA") headquarters near Langley when he heard a code broadcast on his radio indicating that a dead body had been found at Fort Marcy Park.³⁵ Because the officer assigned to the park

³²(...continued)

Confidential Witness eleven months after their conversation, the Park Service employee said that the Confidential Witness "could have been" the man driving the white van on July 20, 1993. The Confidential Witness could not positively identify the Park Service employee he spoke with on July 20, 1993. (OIC Document 000425).

³³ The Public Safety Communications Center also received a call for a car that had crashed on the George Washington Parkway near the ramp to Route 123. This call was also relayed to the Park Police, but has no apparent relation to the Foster incident. (OIC Documents 000089, 000162-000164)

³⁴ The Emergency Response Team passed a blue Mercedes with hazard lights flashing, apparently abandoned on the shoulder of the road. The driver of this car was interviewed that night by the Park Police and later by the FBI. Her car broke down on the George Washington Parkway, about 50 to 60 feet onto the entrance ramp to Fort Marcy Park. She put on her emergency lights and began walking toward the park in search of a telephone. She walked past a white, four-door car, possibly a Honda, pulled over to the side, which contained an occupant apparently looking at a map. She declined his invitation to give her a ride. He then drove into the parking lot, made a U-turn and then drove back onto the Parkway. She walked into the parking lot, where she recalled seeing a dark blue car and a light gray or silver car. Unable to find a telephone, she walked back to the Parkway and proceeded north, again declined the assistance of another man and eventually received assistance at a gas station near the McLean/Chain Bridge exit. She also recalled that several emergency vehicles with sirens sounding passed her as she was walking along the Parkway. (Interior Document I159; OIC Documents 000145-147; see also OIC Documents 000034-35).

³⁵ Officer Fornshill was on special assignment at the entrance to CIA headquarters, where a multiple shooting had occurred in February 1993. The Park Police had since been assigned to provide a "uniform deterrent presence" and to "augment [the CIA's] security force." (Fornshill, 7/12/94 Dep. pp. 10-11).

was not immediately available, Officer Fornshill was instructed to join Fairfax County's emergency response personnel at the park.³⁶ He then drove down the George Washington Parkway and entered the park, where he met Emergency Medical Technicians George Gonzalez and Todd Stacey Hall.(59)³⁷ They went to the first cannon in the park, at which point Officer Fornshill went in a northern direction while Mr. Hall and Sergeant Gonzalez went in a more southern direction.³⁸ Another group, consisting of emergency medical personnel Jennifer

³⁶ Officer Franz Ferstl was responsible for patrolling the George Washington Parkway. It took him about fifteen minutes to drive to the park after the Park Police dispatcher instructed him to go there. While in route to the park, Officer Ferstl heard Officer Fornshill broadcast that he was responding to the scene. (OIC Document 000266).

When Officer Ferstl arrived, Officer Fornshill was already present and the decedent's body had already been discovered. (Interior Document I21; Treasury Document T6234). Officer Ferstl then walked to the death scene, where he saw the body, with the head pointing straight up to the sky and drying blood near the mouth. The eyes were open. The decedent was wearing a white shirt, dark dress pants and no tie. The clothes were very clean and he did not recall blood stains on the shirt. After viewing the body, he retrieved police crime scene tape from his cruiser and then taped off the area. He later took several Polaroid photographs of the area and, at the direction of Investigator Cheryl Braun, obtained the names and addresses of civilians who were present in the park. He recalled Investigator Braun searching Mr. Foster's car and finding White House identification in the front seat. After Investigator Braun finished her search of the car, Officer Ferstl accompanied the truck that towed the car back to the Park Police's Anacostia station. (Interior Documents I21-I22; Treasury Documents T6234-T6235; OIC Documents 000266-000268).

³⁷ Mr. Hall, Sergeant Gonzalez and Richard Arthur had been dispatched to Fort Marcy Park at 6:03 p.m. Other emergency medical personnel dispatched to the scene include: Jay Iacone, Heavy Rescue Driver; Ralph Pisani, Engine Driver; Jennifer Wacha, Engine or Ambulance; Corey Ashford, Ambulance Technician and Bill Bianchi, Fire Lieutenant.

³⁸ Richard Arthur, Jay Iacone, Ralph Pisani and Jennifer Wacha -- all of the Fairfax County Fire and Rescue Department -- also went searching in the woods for the dead body. (OIC Documents 000171-000172) They came across a couple in the woods about 100 yards away from where Mr. Foster's body was ultimately found. (Arthur, 7/14/94 Dep. pp. 19-20; Interior Document I25).

(continued...)

Wacha, Ralph Pisani, James Iacone and Richard Arthur also searched in the

³⁸(...continued)

The couple, a male and female, had come from work to the park between 5:00 p.m. and 5:30 p.m. in her white 1992 four-door Nissan, with a light blue interior and a can of beer and one or two empty wine cooler bottles on the car floor. Upon entering the parking lot, she noticed a mid-1980s Honda, possibly an Accord, either tan or dark in color, possibly with a white male seated in the front seat. He recalled seeing a small brownish station wagon or hatchback, with the hood up and a white male with long blond hair and beard. (OIC Document 000120). This car left shortly after they parked. (Interior Document I25). She also saw an old four-door sedan drive into the parking lot, make a U-turn and immediately exit the park -- this was probably the first male who offered to assist the stranded driver of the light blue Mercedes. (OIC Document 000117). Finally, they saw a white van with blue lettering on the side -- probably the vehicle driven by the Confidential Witness. (OIC Documents 000117, 000120-000121). Shortly before 6:00 p.m., the couple walked back into the woods, where they were later discovered by the Fairfax emergency response personnel. (OIC Documents 000118). After Investigator Cheryl Braun questioned the couple, they were allowed to leave the scene. (See OIC Documents 000116-000119, 000120-000121; Interior Document I25).

park.(60)³⁹ Officer Fornshill ran up a slight hill to a second cannon, where he saw a body lying face up on a slope.(61)

Officer Fornshill first viewed the body from its left side at a distance of about six feet, then moved in an arc around the top of the body to the right side. He noticed that the hair on the head was neatly in place and that the mouth was slightly open. The shirt was white with the collar open.⁴⁰ The shirt was clean and his pants were unsoiled and neatly creased.(62) Mr. Foster's complexion was gray, his head was slightly tilted to the right, and blood had trickled out of his mouth. His legs were straight and his arms were relaxed at his sides.(63) Officer Fornshill did not see any trampled vegetation or any indications that a

³⁹ Mr. Arthur initially felt Mr. Foster's death was "probably a homicide." (Arthur, 7/14/94 Dep. p. 36). He was suspicious because the body was lying very straight on the ground, because the body was "way back in the woods," because the 911 caller did not remain with the body until police arrived and because the bullet wound appeared to be of a smaller caliber than the gun Mr. Foster had in his hand. (Arthur, 7/14/94 Dep. pp. 30-32). He arrived at the death scene shortly after Officer Fornshill, Sergeant Gonzalez and Mr. Hall. Mr. Foster obviously appeared to be dead, so he did not check for a pulse. He believed Mr. Foster had been shot by a low caliber weapon on the right side of the neck between the ear and jaw. He saw no exit wound, and said he was told by Corey Ashford, one of the emergency response personnel who removed the body from the scene, that there was no exit wound. He variously described the gun as a brown and black nine-millimeter pistol, as an automatic weapon of approximately .45 caliber and as a "brownish, blackish" automatic style pistol. (See OIC Documents 000036-000040, 000185-000190; Arthur, 7/14/94 Dep. p. 23).

Once Mr. Arthur was supplied with additional information obtained during subsequent investigations, such as the actual location of the entrance wound, the presence of an exit wound, and gunpowder in the mouth and on the webbing of both hands, he acknowledged Mr. Foster's death was probably a suicide:

If I had all that information and that's what I saw, then yes, it would be a suicide, in my opinion. Although I wasn't there when the trigger was pulled so I can't say for sure, but to me it sounds like it was a suicide with that information.

(Arthur, 7/14/94 Dep. p. 49).

⁴⁰ Mr. Hall recalled seeing a tie, but then also thought that the tie may have been left in the car. (OIC Documents 000042-000043).

struggle had occurred at the death scene. Officer Fornshill did not see a gun in the right hand initially.(64)

Officer Fornshill then called out to Sergeant Gonzalez and Mr. Hall that he had found a body. The paramedics immediately ran to Officer Fornshill, who moved away from the body without touching it.(65) When Mr. Hall approached the right side of the body, he noted that Mr. Foster's face was pointing straight up. Mr. Hall testified that he did not move Mr. Foster's head.⁴¹ He checked for a pulse on the left side of the neck. He noted that Mr. Foster was grayish and cold. Mr. Hall testified that he saw blood on the right collar area of the Mr. Foster's shirt and a gun in his right hand, partly obscured by the decedent's right leg.(66)⁴² Mr. Hall testified that upon seeing the gun in the Mr. Foster's

⁴¹ Officer Fornshill never saw any of the emergency response personnel touch or move the decedent's head, though his view was blocked at certain times and he was not present during the entire time they were with the body. (OIC Documents 000206-000207; Fornshill, 7/12/94 Dep. 17, 19-21). Nor did Sergeant Gonzalez, Mr. Hall or Mr. Arthur attest to moving the body. (Arthur, 7/14/94 Dep. p. 22; Hall, 7/20/94 Dep. pp. 14, 22-23; Gonzalez, 7/20/94 Dep. p. 33).

In considering the position of the head, the Independent Counsel's Panel of Pathologists noted that, "According to multiple observers at the death scene, the head was facing upward when Mr. Foster's body was found. This was confirmed in scene photographs. There were linear blood stains coursing across the right side of the face, emanating from the nose and mouth. A broad transfer-type blood smear was present at the right side of the chin and neck, precisely corresponding to a blood stain on the right collar area of the shirt." The accumulation of blood in the nose and mouth indicated that "the head must have been facing to the right when the body was found or have been turned to the right when the body was being examined at the scene." The pathologists concluded that "a rightward tilt of [Mr. Foster's] face was changed to a forward orientation by one of the early observers before the scene photographs were taken." (Fiske Report, Exhibit 3, paragraph 7).

⁴² Sergeant Gonzalez also recalled blood being on the left collar. (OIC Document 000042). Upon reviewing photographs of the body taken later that day by the Park Police, he noted that there may have been blood on the decedent's right cheek, and that leaves and brush in the area could have obscured the blood on the shirt and cheek.

hand, he suspected the death was a suicide.(67)⁴³ Officer Fornshill notified the dispatcher that the dead body had been located.(68)

Sergeant Gonzalez also testified that Mr. Foster's body was located on the side of a hill, with the head pointing up the hill. He testified that Mr. Foster was wearing a white shirt and dark pants, was lying on his back with his mouth open and had his hands at his sides with a gun in his right hand.(69)⁴⁴ He recalled the gunshot wound to be located in the upper, right front portion of the skull, though he also assumed that the entrance wound might have been in the mouth.(70) Sergeant Gonzalez saw blood in the decedent's mouth, and noticed the pooling of blood at the extremities.⁴⁵ At this point, he determined that Mr.

⁴³ The Office of the Independent Counsel redacted one page from their written report of their interview with Mr. Hall. (OIC Document 000044).

⁴⁴ Sergeant Gonzalez believed Mr. Foster's right hand was located in a position that differed from the position in one of the photographs taken at the scene and later shown to Sergeant Gonzalez by the FBI. (Gonzalez, 7/20/94 Dep. pp. 37-39).

⁴⁵ At the time of the incident, Sergeant Gonzalez recorded his narrative report as follows:

We rec. a call for a poss. DOA in the park off GW Pkwy. While in route as we got onto GW Pkwy we saw a car on the side of the road that appeared to be [sic] Linc. Twncar which had wrecked into the trees. Minor auto damage. Driver looked ok and was walking around. As we entered the park (Fort Marcy) we passed a light blue Mercedes w/it hazards on. No occupant in veh. Went further up in to the park and saw two other veh. Brwn Honda, AR tags. And a white Nissan w/MD tags. No other people in the area. We split our crews one went on the north trail and other on the south trail. Sgt. Gonzalez and Tech Hall along W/Park PD officer Forshon [sic] went up the north trail in search of a body. We came across the first cannon. I searched around this area and found nothing. We searched further to the next cannon and found a dead male w/suit pants. And dress shirt. No tie or coat. Laying supine feet first down the hill. The first person to reach him was the Tech Hall and Park PD. I followed seconds behind them. I then advised F, PS LC the situation. We left Park PD with the victim and returned our equip to our unit. In discussion w/PD he asked how many cars were out in

(continued...)

Foster could not be revived. He saw no signs of struggle.(71) Sergeant Gonzalez advised his dispatcher that they had a dead body.(72) At 6:46 p.m., Sergeant Gonzalez indicated that this was an "obvious 10-61, suicide w/ gun."(73)

After Park Police Sergeant Bob Edwards and Officer Franz Ferstl arrived on the scene, Officer Fornshill began to return to his post at the CIA.(74)⁴⁶ As Officer Fornshill reached the parking lot, he noticed a Honda Accord with Arkansas license plates and a man's jacket matching the decedent's pants neatly folded over the front passenger seat.(75)

Upon returning to the parking lot, Technician Hall noticed a light blue, four-door foreign make car, which he thought might have been a Toyota Corolla, containing a suit jacket that matched the decedent's pants, a briefcase and perhaps a tie.⁴⁷ Sergeant Gonzalez and Mr. Arthur returned to the parking lot, helped the Park Police determine which car belonged to the decedent and, then left the park.

B. The Park Police Death Scene Investigation

After receiving Officer Fornshill's call for detectives, Park Police investigators John Rolla, Cheryl Braun and Renee Apt drove to Fort Marcy Park.(76) They arrived at about 6:35 p.m. Investigator Braun, the most senior

⁴⁵(...continued)

the parking lot. I said 3, 1 at the entrance and 2 in the parking lot. We arrived back our unit and assisted PD. While in the parking lot we looked for veh. w info. to relate to the PT. One veh. stood out. The Honda. Which had the remaining parts to his suit, his coat and tie. PT assessed visually lividity had set in. pooling of blood in the extremities. PT had been dead approx. 2 - 4 hrs. PT had a weapon in his righthand [sic].

(OIC Document 000078).

⁴⁶ Officer Ferstl, rather than Officer Fornshill, completed an incident report because the incident occurred in Officer Ferstl's assigned area and he was therefore responsible for reporting the incidents in his "beat." (Hines, 7/25/94 Dep. p. 13; Fornshill, 7/12/94 Dep. pp. 33-37; Interior Documents I21-I22; Treasury Documents T6234-T6235).

⁴⁷ Mr. Hall may be partly confusing Mr. Foster's car with the abandoned light blue Mercedes they had passed on the Parkway.

How
When
investigator on the scene, designated Investigator Rolla as the primary investigator for the death scene and she handled the investigation at the parking lot.⁴⁸ The investigators were briefed at the scene by Officer Ferstl, who told them that the decedent had been tentatively identified as Vincent Foster of Little Rock, Arkansas and had apparently died of a self-inflicted gunshot wound to the head.(77) They were also informed that a 1989 Honda Accord with Arkansas license plates was discovered in the Fort Marcy parking lot and was believed to belong to the decedent.(78)

Investigator Rolla, Officer Ferstl, Investigator Apt and possibly Officer Christine Hodakievic proceeded to the death scene, where they were met by Sergeant Edwards and Officer Julie Spetz.(79) The area had already been taped off and Investigator Rolla was told the body had not been touched.(80) After Sergeant Edwards briefed Investigator Rolla and showed him several Polaroid photographs that Sergeant Edwards and Officer Ferstl had taken at the scene, Investigator Rolla carefully viewed the death scene and described it in his report in detail:

I observed the decedent to be a white male, approximately 45 to 50 years of age with dark hair, graying, and slightly receding. The decedent was laying face up on an embankment in front of the second cannon. The decedent's head was facing east and his feet facing west. I observed blood in his nose and mouth area, on his right shoulder area and underneath his head. The blood on the ground and on his shirt appeared to still be wet. There was no blood spatter on the plants or trees surrounding the decedent's head. I observed a dark colored revolver in his right hand. The decedent's right thumb was still in the trigger guard. After lifting both arms of the decedent, I observed lividity but no rigor mortis.

The decedent was dressed in a white long sleeve button down dress shirt. White undershirt, dark blue dress pants with blue pinstripes, black dress shoes, black socks and a black belt. The decedent was wearing a Seiko watch with a gold colored face and brown leather band on his left wrist; a silver colored metal ring with a white stone on his right ring finger; a gold colored metal ring, band type, on his

⁴⁸ Investigator Braun testified that she did not take the lead in the death scene investigation because she knew that she was being promoted to sergeant on August 4, 1993, and would soon move to a new office. She also testified that she wanted Investigator Rolla, who was a new investigator, to gain this death scene investigation experience. (Braun, 7/23/94 Dep. pp. 19, 51, 53).

left ring finger. The inscription . . . was on the side of the ring. The decedent also had a Motorola Bravo style pager on his right side waist area. The letters WHCA were inscribed on the side. A pair of brownish colored plastic framed glasses were found approximately thirteen feet west of the decedent.(81)⁴⁹

Investigator Rolla then took Polaroid photographs about fifteen minutes after arriving at the death scene, including pictures of the body, the gun, and the eyeglasses.(82)⁵⁰ He also noted the presence of gunpowder on the webbing

⁴⁹ Investigator Rolla testified that he lifted the arm to check "for rigor mortis and body warmth, just to get an idea how long he had been there." (Rolla, 7/21/94 Dep. pp. 27-28). He touched the body before the medical examiner arrived.

⁵⁰ Investigator Rolla saw what he believed to be a transfer stain on the right shoulder, which would have been caused by contact between Mr. Foster's right cheek and right shoulder. At the time Investigator Rolla saw Mr. Foster, however, Mr. Foster's head was straight up in the air and not in contact with the shoulder. Since Mr. Foster probably died immediately after the shot was fired, it is most likely that someone moved Mr. Foster's head, but would not admit to having done so. Upon his arrival at the death scene, Investigator Rolla was informed that the body had not been touched. (OIC Documents 000222; Rolla, 7/21/94 Dep. pp. 17-18, 48).

An FBI bloodstain pattern examination concluded that the "quantity, configuration, and distribution of the blood on the shirt and the right cheek and jaw of the victim are consistent with the jaw being in contact with the shoulder of the shirt at some time. The available photographs depict the victim's head not in contact with the shirt and therefore indicate that the head moved or was moved after being in contact with the shoulder." It was therefore concluded that movement of the body by investigative or medical personnel caused the increased staining that is apparent in the autopsy. (OIC Documents 000615-000616; Fiske Report, p. 44 & Exhibit 1).

As Investigator Rolla suggested, it might have been considered a "a bad thing" for someone to have moved Mr. Foster's head because

this was not an obviously long-dead person. But police officers are always -- they know they are not supposed to touch evidence, touch things. They are often afraid to say that they have done something, and this would not -- if somebody reached up there and checked his
(continued...)

of the decedent's right hand, and the fact that the decedent's right thumb was trapped between the trigger and the trigger guard.(83)

After all photographs were taken, Park Police Technician Peter Simonello recovered the gun.(84)⁵¹ According to Technician Simonello, the gun was "underneath" the decedent's hand and therefore "mostly hidden;" to remove the gun, Technician Simonello "had to ease the hammer of the weapon back slightly to take some of the tension off of the trigger in order that I may pass the knuckle through, which I did."(85) The gun was a .38 caliber revolver. It contained one spent .38 caliber round and one live .38 caliber round.(86) Technician Simonello took the gun to the Park Police laboratory, wrapped the barrel in brown craft paper and secured the paper with rubber bands. He then placed the gun in a bag and later placed it in an evidence locker at Park Police headquarters.(87)

Given the position of the body, Investigator Rolla concluded preliminarily that the decedent:

[s]at down on a tree root, which stuck out on the side [of] the berm, which acted like a little seat...put the gun in his mouth, shot himself and fell backwards with his hands falling, just natural gravity, falling at his sides, so his right hand was right at his right thigh.(88)⁵²

⁵⁰(...continued)

carotid [artery] and moved his head or whatever, but, for some reason, someone is not saying what happened there.

(Rolla, 7/21/94 Dep. p. 18).

⁵¹ Although the photographs taken by Investigator Rolla and Sergeant Edwards were clear, the 35 millimeter photographs Technician Simonello took were apparently underexposed and the images were therefore difficult to discern. (Simonello, 7/14/94 Dep. p. 19; Hume, 7/22/94 Dep. pp. 74-75). The Polaroid photographs were later used by the Office of the Independent Counsel to determine the location of the body and search for the missing bullet.

⁵² The Independent Counsel's Panel of Pathologists also concluded that Mr. Foster was seated when he shot himself. If Mr. Foster had he been standing at the time of the shooting, "he would not have ended up in the orderly position in which he was found." If he had he been lying down at the time of the shooting, "it is likely that the bullet would have been recovered from the ground underneath

(continued...)

Investigator Rolla lifted the left hand to check for lividity, and found that the body was still relatively warm and was not yet affected by rigor mortis. Given this information, coupled with the fact that the blood was just starting to clot, Investigator Rolla concluded that the body had been there for about two to three hours, though the unusual heat of the day may have distorted some of the indicators Investigator Rolla relied upon in making his estimate.(89)⁵³

Investigator Rolla saw no drag marks or tire tracks from the parking lot to the death scene and no signs of unusual trampling of the foliage.(90)⁵⁴ He saw no signs of struggle, noting that Mr. Foster was a very large man, and that his clothes were very neat and clean -- with the exception of the blood stains on the shoulder and back.(91)⁵⁵

⁵²(...continued)

his head." The bullet was never recovered.

Moreover, the Panel of Pathologists concluded that a relatively small amount of blood was found at the scene because the body was on a steep slope with the wounds elevated above the rest of the body. Mr. Foster's blood therefore settled into portions of his body below the level of the head wounds. Bleeding was also minimized by the prompt cessation of cardiovascular activity due to the injury to the brain. (Fiske Report, Exhibit 3, section 6).

⁵³ Another important factor in Investigator Rolla's estimation of the time of death was the presence of flies in and around the mouth and nostrils, but the fact that they had not yet begun laying eggs. (OIC Document 000223, Rolla, 7/21/94 Dep. pp. 20-21). Other witnesses noticing the presence of flies were Fairfax County Medical Examiner Dr. David Haut (OIC Document 000296), Mr. Arthur (Arthur, 7/14/94 Dep. pp. 25, 49), Officer Fornshill (OIC Document 000205), Sergeant Gonzalez (Gonzalez, 7/20/94 Dep. pp. 19, 124) and the Confidential Witness (OIC Documents 000107, 000140, 000167).

⁵⁴ The Confidential Witness said he thought the foliage near the body had been trampled. (OIC Documents 000107, 000140; Confidential Witness, 7/28/94 Dep. pp. 29-32) He is the only witness who held that view. See statements or testimony of Investigator Apt (OIC Document 000210); Fornshill, (Fornshill, 7/12/94 Dep. p. 103); Braun, (Braun, 7/23/94 Dep. p. 21).

⁵⁵ The Independent Counsel's Panel of Pathologists concluded that "it is exceedingly unlikely that an individual of Mr. Foster's physical stature (6 feet 4 1/2 inches in height, 197 pounds in weight) could have been overcome by an
(continued...)

Fairfax County Medical Examiner Dr. Donald David Haut arrived on the scene to inspect the body. Investigator Rolla briefed Dr. Haut on the findings of the investigation: a .38 caliber revolver was in the decedent's right hand, there were no signs of struggle, and there was blood under the head but no additional signs of trauma. Investigator Rolla and Dr. Haut then rolled the body onto its side, with Dr. Haut standing by Mr. Foster's feet to keep his body from sliding down the steep hill.⁵⁶ They then saw the exit wound, a small area in the upper middle area of the back of the head.(92) Investigator Rolla also saw apparent lividity on the lower arms and legs, which was consistent with the position of the body on the incline.(93) After viewing the body, Dr. Haut concluded that the incident had occurred several hours earlier. Dr. Haut pronounced Mr. Foster dead at the scene.(94) Dr. Haut later notified Deputy Chief Medical Examiner Dr. James Beyer about the discovery of a dead body so that an autopsy could be scheduled.(95) In his report, Dr. Haut wrote that the cause of death was a "perforating gunshot wound mouth-head," and for manner of death he checked the box next to the word "Suicide."(96)⁵⁷ Dr. Haut listed the time of death as 6:15 p.m.(97)⁵⁸

⁵⁵(...continued)

assailant inflicting an intraoral gunshot wound without a struggle and there not to have been some other injury sustained at the time." (Fiske Report, Exhibit 3, section 1).

The FBI laboratory analysis of Mr. Foster's jacket, tie, shirt, T-shirt, shorts, pants, belt, socks and shoes revealed "[n]o apparent damage, i.e, cuts, tears abraded areas or missing buttons." (OIC Document 000618).

⁵⁶ A portion of Investigator Rolla's statement which was apparently related to the viewing of the body was redacted. (OIC Documents 000224-000225).

⁵⁷ In the narrative of his report, Dr. Haut wrote the following:

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 Marcy Park [sic] His car was parked in the parking lot but no note was found. MEDICAL HISTORY Unknown.

⁵⁸ Inspector Rolla recalled Dr. Haut saying the time of death should be recorded as 6:00 p.m., the approximate time at which the body was discovered. Investigator Rolla was surprised by this, since Mr. Foster was obviously dead well

(continued...)

Investigator Rolla removed Mr. Foster's personal effects, which included a watch, two rings and a pager.(98) Although Investigator Rolla checked Mr. Foster's pants pockets, he was not able to locate the car keys.(99) Investigator Rolla then returned to the parking lot. Investigator Braun had already interviewed the couple found in the woods who had come to the park in the white Nissan.(100) Officer Julie Spetz was canvassing for potential witnesses in the area.(101) Technician Simonello was taking pictures of the Honda, which contained a man's suit jacket matching Mr. Foster's dress pants. They found a wallet inside the jacket containing about \$300 in cash. They also found White House identification for Vincent W. Foster with a photograph of the decedent, and a piece of paper listing the names and telephone numbers of three doctors.(102)⁵⁹ Investigator Braun also found college papers with the name of Mr. Foster's daughter written on them and textbooks in the trunk; sunglasses and empty cigarette boxes in the glove compartment; and two empty beer bottles, a canvass bag, a folded map of the Washington area Beltway and cassette tapes in the interior of the car.(103)⁶⁰ After Investigator Braun was finished with the car, it was sealed with tape and towed to the Park Police's Anacostia

If car
unlocked
then
anyway
could
take
briefcase
include
after CW

⁵⁸(...continued)

before that time. (Rolla, 7/21/94 Dep. pp. 83-84, 87-88). Dr. Charles Hirsch testified, however, that the "official time of death is when someone discovers a body and says this is a dead human being. The actual time of death may be vastly different, may be different by years, in fact." (Hirsch, 7/29/94 Hrg. p. 176). It may be that Dr. Haut suggested the time of the discovery as the time of death since the actual time of death could not be specifically determined. (See Fiske Report, Exhibit 3, section 2).

⁵⁹ Investigator Braun testified that after she learned that Mr. Foster was a White House employee, she paged top level Park Police officials and called Lt. Patrick Gavin, the shift commander. (Braun, 7/23/94 Dep. pp. 24-26, 44, 83, 112). Major Hines testified that he received a telephone call, not a page. (Hines, 7/25/94 Dep. pp. 103-105).

⁶⁰ The Fosters' daughter frequently drove the Honda found at Fort Marcy Park on July 20, 1993. She and her brother shared the car, but she had used it primarily while attending college in Tennessee and then had driven it to Washington. The Fosters also owned a Lexus, which Mrs. Foster brought to Washington after the family moved from Little Rock. Mr. Foster often used the Honda to commute to and from the White House. The contents found in the car on July 20, 1993, such as the beer cans, cigarette pack and corkscrew belonged to the Fosters' sons who had taken the car to the beach during the previous weekend. (OIC Document 000280).

Station.(104)⁶¹ Officer Ferstl accompanied the car as it was towed for security purposes.(105) According to Investigator Braun, Technician Simonello made no attempt to lift fingerprints from the car, "since it was fairly obvious it was a suicide" and "[t]here was no indication it was a homicide scene."(106)⁶²

The Fairfax County Fire and Rescue Department sent Corey Ashford and Roger Harrison to recover the body. They placed Mr. Foster in a body bag.⁶³ As the body was lifted, Investigator Rolla noticed additional blood dripping out from the decedent's head, mouth and nose.(107)⁶⁴ They then transported the

⁶¹ Eleven months after Mr. Foster's death, a General Services Administration employee told the FBI that he had spoken with a tow truck driver he met at a bar about towing a car from Fort Marcy Park to FBI headquarters on July 20, 1993. According to the GSA employee, the tow truck driver said the car he towed was missing a front driver's side window and had blood on the dashboard. (OIC Documents 000423-424). When the FBI contacted the tow truck driver, he denied having towed a car from Fort Marcy Park to the FBI Headquarters on July 20-21, 1993. (OIC Document 000422). Park Police Investigator Christine Hodakievic noted that a tow truck came for the abandoned blue Mercedes parked at the entrance gate. (Treasury Document T6236). In addition, the company that towed the Foster car provided a receipt stating that the car was towed from "FT Marcy Parking [sic]" to "C.I.B." on July 20, 1993. (Interior Document I377). Moreover, Lt. Gavin assured the Secret Service on July 20 that Mr. Foster's car had been sealed. (OIC Document 000178). Finally, there is also a Park Police record indicating that they impounded the car on July 20, 1993 and released it to David Craig Livingstone on July 28, 1993. (Interior Document I108).

⁶² Captain Charles Hume testified that he later ordered the car to be checked for fingerprints. He did not recall anything of significance being recovered. (Hume, 7/22/94 Dep. p. 103).

⁶³ Mr. Ashford recalls that he and the driver alone lifted the corpse into the body bag. (OIC Document 000002). Mr. Harrison recalls himself, Mr. Ashford and a Park Police officer lifted the body into the bag. (OIC Document 000032).

⁶⁴ As the Independent Counsel's Panel of Pathologists concluded

It is our opinion that the death occurred where the body was found at Fort Marcy Park, Virginia. The relatively pristine nature of the exposed skin surfaces of the deceased and of his clothing

(continued...)

body to Fairfax Hospital.(108)⁶⁵ Lt. William Bianchi of the Fairfax County Fire and Rescue Department also came to the scene. He recalled three people -- Mr. Ashford, himself and either Victoria Jacobs or Andy Makuch⁶⁶ -- lifted the body onto a stretcher. They rolled the stretcher along the long stretch of uneven terrain to the parking lot and placed the body into the ambulance.(109) The body was then taken to Fairfax County Hospital.

Between 8:30 p.m. and 9:00 p.m., Dr. Julian Orenstein of Fairfax County Hospital's Department of Emergency Medicine viewed the body. Dr. Orenstein recalled the decedent being a white male in his forties and wearing expensive clothing. Dr. Orenstein noted dried blood on the decedent's face and shirt. Paramedics accompanying the decedent described the victim as an apparent suicide and informed Dr. Orenstein that a gun had been found in the decedent's hand. He noted that the body was rigid. Police officers also noted the amount of gunpowder on the decedent's hands was an indication of suicide. Dr. Orenstein saw nothing about the body that would have led him to believe that the death was

⁶⁴(...continued)

precludes any other scenario. Substantially greater contamination of skin surfaces and clothing by spilled and/or smeared blood would have been unavoidable, had the body been transported postmortem to the place where it was found. Precisely such contamination was, in fact, documented following actual transport of the body from the scene of death to Fairfax Hospital, and from there to the medical examiner's office. There was no such contamination when the body was examined and photographed at the scene.

(Fiske Report, Exhibit 3, section 3). Furthermore, Dr. Haut saw no evidence that the body had been moved to Fort Marcy Park from another location. (OIC Document 000298).

⁶⁵ Mr. Ashford believed that Mr. Foster was murdered because the body was found in a wooded area. He did not recall seeing any blood on the body or getting any blood on his clothes or gloves, even though he helped put the corpse into the body bag. (OIC Documents 000001-000003).

⁶⁶ Ms. Jacobs recalls helping to put the body bag on the stretcher and then helping to lift the stretcher into the ambulance. (OIC Documents 000028-000030). Mr. Makuch does not mention who lifted the bag onto the stretcher. (OIC Documents 000024-000027).

something other than a suicide.(110) Of all the people on the scene, only Mr. Ashford officially classified the death as a homicide.⁶⁷

Investigators Braun and Rolla, realizing that they had been unable to find any keys to the Honda at the scene, went to Fairfax Hospital to check the decedent's clothing for the keys. They recovered the keys from the decedent's right front pants pocket.(111)

C. The Death Notification

Investigators Braun and Rolla left the hospital to notify Mr. Foster's family of his death.⁶⁸ At the request of their shift commander, Lieutenant Gavin, the investigators contacted White House Security Chief Craig Livingstone and Mr. Kennedy, who sought and were given permission to go identify the body.(112)⁶⁹ Lieutenant Gavin also contacted the Secret Service to notify them of Mr. Foster's death, faxed a press release to former White House Press Secretary Dee Dee Myers and received a phone call from Assistant White House Chief of Staff Bill Burton and former White House aide David Watkins.(113) Lieutenant Gavin then directed Investigators Rolla and Braun to contact Mr. Watkins, who told the investigators that he had been a close friend of the Fosters, and that he would like to go with them to notify the family of the death. Since the investigators thought it might be useful for a close family friend to be present at the time of the death notification, they allowed him to go with them to the

⁶⁷ Lieutenant Bianchi later asked Mr. Ashford why he had classified the death as a homicide. He recalled Mr. Ashford saying he did so because he saw no gun on the scene, and therefore assumed that Mr. Foster must have been shot by someone else. Mr. Ashford also thought it was a homicide because the body was found in the woods. (OIC Documents 000022).

⁶⁸ A portion of Investigator Rolla's statement, which was apparently related to the death notification, was redacted. (OIC Documents 000226-000227).

⁶⁹ After speaking to Investigators Braun and Rolla, Mr. Livingstone contacted Mr. Kennedy and told him that Mr. Foster was dead, apparently by committing suicide. Mr. Livingstone told Mr. Kennedy that Mr. Foster's body was en route to the hospital and they both met at the hospital. They viewed the body in the presence of a hospital official and confirmed that the dead individual was indeed Mr. Foster. Mr. Kennedy believed he called White House aide Thomas "Mack" McLarty and Mr. Nussbaum to notify them of Mr. Foster's death. (OIC Document 000254).

Foster house.(114)⁷⁰ Investigator Braun also testified that she asked Mr. Watkins to have Mr. Foster's office secured and that Mr. Watkins agreed to do so.(115)⁷¹ Since Mr. Watkins lived just a few blocks from the Fosters, the investigators picked him up at his house and then drove to the Foster home. Mr. Watkins' wife, who had played tennis with Mrs. Foster earlier that day, followed in her own car.(116)

By the time the investigators parked and walked to the Foster home, a number of Foster family friends -- including Mr. Hubbell and Ms. Anthony -- were gathering outside the Foster home.(117) The investigators asked the family friends, about five of them at this point, to wait for a moment at the bottom of the stairs.(118) Inspectors Rolla and Braun knocked on the door. A Foster family member answered and the investigators identified themselves. When Mrs. Foster came downstairs, Investigator Rolla told her that her husband was dead.(119) Mrs. Foster became extremely upset. The family friends rushed inside to console the family.(120) Investigators Braun and Rolla waited for the family to calm down.(121) The investigators then tried to get information about Mr. Foster's state of mind, but the scene was too chaotic for a typical death notification to occur.(122)⁷² At one point, Mr. Hubbell "moved" or "shoved" Investigator Braun away from Mrs. Anthony while Investigator Braun was attempting to talk to her.(123) Mrs. Foster spoke briefly with Investigator Rolla, but did not speak to Investigator Braun.(124)⁷³ The investigators

⁷⁰ Investigator Rolla testified that it is a "good practice to take a close family friend" to a death notification. (Rolla, 7/21/94 Dep. p. 34; Hume, 7/22/94 Dep. pp. 145-146).

⁷¹ Investigator Braun testified that she later learned the office had not been secured that night. (Braun, 7/23/94 Dep. pp. 107-08).

⁷² Typically, the death notification would include efforts to "look for items to show that there was no foul play," inquiries about the decedent's finances, state of mind, health problems, use of medications and domestic situation. (Hines, 7/25/94 Dep. pp. 52-53).

⁷³ Investigator Rolla testified that immediately after he told Mrs. Foster that her husband had been killed or shot himself, she asked if her husband had put the gun in his own mouth. Investigator Rolla did not record this statement in his report. (Rolla, 7/21/94 Dep. pp. 38, 135, 143, 158; Braun, 7/23/94 Dep. p. 113; Hume, 7/22/94 Dep. p. 101). Investigator Rolla also testified that when he asked Mrs. Foster if her husband owned a gun, she asked Rolla "what kind of gun" and
(continued...)

were also unable to speak at any length with any of the Fosters' children. After about 45 minutes, President Clinton arrived at the Foster home to console the family. After a few minutes, the investigators realized that they were not likely to get any additional information and that they were imposing on the family and friends.⁷⁴ They decided to leave and try to question the family later.(125) They left the Foster home and went to Park Police Headquarters to complete their paperwork and to store all evidence.

The Subsequent Investigation

A. The New Investigation Team

Once they returned to headquarters, Investigators Rolla and Braun briefed Major Holmes on their investigation. Investigator Braun also relayed the Foster family's request to delay any public statement until Mr. Foster's mother was personally notified of his death.(126) Investigator Braun testified that she later learned that the White House had already issued a press release, so she

⁷³(...continued)

"what did the gun look like." She told Investigator Rolla that the suicide was "out of the blue" and that there were no signs that the suicide was coming. (See Rolla, 7/21/94 Dep. pp. 37-39; Braun, 7/23/94 Dep. pp. 37-40). Captain Hume recalled Technician Simonello hearing this statement, but Technician Simonello was not present during the death notification. (Hume, 7/22/94 Dep. p. 99).

⁷⁴ Investigator Rolla felt he had been "stonewalled" during the death notification, since "everybody [at the death notification] said, no, they knew nothing about [Mr. Foster's] depression or anything when it later comes out that he was depressed and they were aware of it, but at the time, no one really spoke to us or gave us any information." (Rolla, 7/29/94 Hrg. p. 203; see also Rolla, 7/21/94 Dep. pp. 154-157; Rolla, 7/29/94 Hrg. pp. 207, 219).

Investigators Rolla and Braun also stated, however, that no White House official "stonewalled" them at the death notification, that no one pressured the investigators to alter their reports or conclusions relating to Foster's death and that nothing they have learned since their initial investigation had altered their conclusion that Mr. Foster's death was a suicide. (Rolla, 7/29/94 Hrg. pp. 219-220; Braun, 7/29/94 Hrg. pp. 219-220).

Moreover, Major Robert Hines noted that it is "not unusual" for family and friends to tell the police initially that they have no idea why the victim would have committed suicide. (Hines, 7/25/94 Dep. pp. 53, 54).

tried to contact Mr. Watkins to let him know that the statement had not come from the Park Police(127).⁷⁵ She testified that he did not respond to her attempts to page him.(128)

When Captain Charles Hume arrived at headquarters the next morning, Investigators Braun and Rolla and Sergeant Robert Rule briefed him on the investigation and gave him their police reports to review.(129) Investigators Rolla and Braun also indicated that they needed to conduct a more in-depth interview of Mrs. Foster.(130) Investigator Braun also informed him that the autopsy had been scheduled for July 22.⁷⁶ After briefing Captain Hume, Investigators Braun and Rolla went home, assuming that Investigator Braun would be present at the autopsy.(131)⁷⁷ Captain Hume assigned Detective Pete Markland to the case -- partly because of Detective Markland's experience on matters involving the White House -- and Captain Hume decided to accompany Detective Markland to the White House to interview Mr. Foster's colleagues.(132)⁷⁸ Captain Hume also assigned Sergeant Rule and Detective

⁷⁵ At about 9:45 p.m. on July 20, 1993, Major Robert Hines -- after having been informed by Lieutenant Gavin that Mr. Foster was a White House employee -- telephoned Bill Burton to offer to brief White House officials on the investigation and to promise not to release Mr. Foster's name until the next of kin had been notified of the death. (Hines, 7/25/94 Dep. pp. 7-8, 47-48). Major Hines testified that Lieutenant Gavin later faxed the Park Police press release -- which did not identify Mr. Foster by name -- to White House Press Secretary Dee Dee Myers. (OIC Documents 000177-000178; Hines, 7/25/94 Dep. p. 48).

⁷⁶ According to Captain Hume and Investigator Rolla, the autopsy was originally scheduled for July 22, but was moved up to July 21. (Hume, 7/22/94 Dep. p. 256; Rolla, 7/21/94 Dep. p. 172). Deputy Chief Medical Examiner Dr. James Beyer testified, however, the autopsy date was never changed. (Beyer, 7/29/94 Hrg. p. 215).

⁷⁷ Because of a promotion and transfer, Investigator Braun had no further involvement in the investigation. (Braun, 7/23/94 Dep. pp. 51-57). Investigator Rolla helped Captain Hume interview Beryl Anthony, contacted the three psychiatrists whose names were found in Foster's car at Fort Marcy Park and reviewed Foster's diary. (Rolla, 7/21/94 Dep. pp. 158-159; OIC Documents 000227-000228).

⁷⁸ Captain Hume told Investigator Rolla that "[Detective] Markland was going to handle the case because [Investigator Rolla] was more of a new person" and
(continued...)

James Morrissette to cover the autopsy, to search the death scene for additional physical evidence and to locate the Park Service employee who provided the information about the location of the body.(133)

B. The Investigation at the White House⁷⁹

Captain Hume and Detective Markland went to the White House later that morning. Their objectives were to trace Mr. Foster's movements in the last hours of his life and to search for any evidence that might be useful in determining Mr. Foster's state of mind, such as a note or diary.(134) They saw Park Police Chief Robert Langston and Major Robert Hines at the White House.(135) Chief Langston and Major Hines had gone earlier that morning to meet with Mr. Nussbaum, Mr. Watkins, Mr. Kennedy, Mr. Hubbell, Mr. Hamilton, George Stephanopoulos, Mr. Burton and others in Mr. Watkin's West Wing office.(136) There were about 14 or 15 people there and they were "in real shock" about Mr. Foster's death.(137) Chief Langston and Major Hines explained to the group that Mr. Foster had died from a gunshot wound, that -- in accordance with standard procedure -- the Park Police were approaching the investigation as though it were a homicide, and that they were awaiting additional information about Mr. Foster's state of mind and the autopsy report.(138) Major Hines informed the group that Park Police investigators might want to question some of them later about Mr. Foster. Mr. Stephanopoulos recommended that Mr. Foster's death "be investigated as it would routinely and normally be investigated."(139)⁸⁰ Major Hines testified that the only

⁷⁸(...continued)

that Captain Hume "would be involved because of the nature of the situation." (Rolla, 7/21/94 Dep. p. 151). Although Captain Hume had "always been impressed with" Investigator Rolla, Captain Hume had experience working with Detective Markland in the early 1980s and Detective Markland had just completed work on a homicide investigation. (Hume, 7/22/94 Dep. pp. 140-141; Rule, 7/26/94 Dep. pp. 46-47).

⁷⁹ The Committee's review of the Park Police investigation at the White House was circumscribed by the scope of Senate Resolution 229, as discussed above.

⁸⁰ Major Hines testified that the death of a high-level White House official like Mr. Foster could not be investigated routinely because of the heightened media attention. (Hines, 7/25/94 Dep. pp. 97-99). According to Major Hines, all routine investigatory steps were taken in the Foster case, but more expensive investigatory techniques -- like DNA testing -- were not taken because the initial

(continued...)

question asked was, "Where was Foster shot?" Major Hines also recalled Mr. Nussbaum saying that the investigation should be "coordinated through the Attorney General."⁽¹⁴⁰⁾⁸¹ The entire presentation lasted about 30 to 35 minutes.⁽¹⁴¹⁾

While Chief Langston and Major Hines briefed Mr. Foster's former colleagues, Captain Hume and Detective Markland were met by Secret Service agents and directed to a waiting area in the West Wing of the White House.⁽¹⁴²⁾ Eventually, Mr. Nussbaum entered the room. Detective Markland indicated that he wanted to look for evidence in Mr. Foster's office and interview Mr. Foster's colleagues. According to Captain Hume, Mr. Nussbaum indicated that representatives from the Justice Department were supposed to be present, and that they could not proceed without them.⁽¹⁴³⁾ The detectives were assured by a Secret Service agent that Mr. Foster's office had been sealed off and was under guard, and that someone from the FBI would join them later.⁽¹⁴⁴⁾⁸² Detective Markland and Captain Hume then left to have lunch

⁸⁰(...continued)

investigation proved that Foster committed suicide. (Hines, 7/25/94 Dep. pp. 98-99). Major Hines testified that the Park Police are very judicious in requesting DNA tests because "[t]hey're expensive" and the money for such tests comes from "the taxpayer's budget." (Hines, 7/25/94 Dep. pp. 135-136). Because they saw no evidence of "foul play," Major Hines testified that the Park Police relied on less costly investigatory techniques, such as firearms tests, blood sample comparisons, fingerprint comparisons and gunpowder pattern tests. (Hines, 7/25/94 Dep. pp. 99-101). Most of these tests were later repeated by the FBI at the request of the Office of the Independent Counsel. (See Fiske Report, pp. 40-48 & Exhibit 1).

⁸¹ Major Hines noted that if there had been any indication of "foul Play" the case would have been the "primary jurisdiction" of the FBI -- a branch of the Justice Department -- under the assassinations statute. (Hines, 7/25/94 Dep. p. 28). The Justice Department was active in the investigation and at one point was "calling a lot of the shots" and "arranging a lot of the protocols." (Hines, 7/25/94 Dep. pp. 83-92). Major Hines also noted, however, that because "the Attorney General is the top cop" in the Federal government, it "would not be that rare" if the Attorney General were to be assigned to take over the task of investigating the case. (Hines, 7/25/94 Dep. p. 89).

⁸² Captain Hume believed that Mr. Nussbaum sealed off the room at about 10:00 a.m. on July 21, 1993. According to a chronology of events prepared at the Treasury Department, White House staff assistant Linda Tripp called the Secret
(continued...)

while they awaited the Justice Department representative.(145) When they returned to the White House, no FBI agents or Justice Department attorneys were yet present.(146) There was some confusion about whether the Park Police or the White House should contact the FBI, so Captain Hume called a supervisor at the FBI's Washington Field Office to request that two agents be sent to the White House.(147) Even after the agents arrived, it was unclear to Captain Hume and Detective Markland how they would be allowed to proceed.⁸³

Captain Hume therefore called Chief Langston to tell him that the detectives had not been allowed to conduct any interviews or search Mr. Foster's office. According to Captain Hume, Chief Langston stated he would call Attorney General Janet Reno.⁸⁴ Chief Langston apparently called the Attorney General,

⁸²(...continued)

Service on July 21 at 10:00 a.m. to request assistance in securing Mr. Foster's office. (Treasury Document T6231). Major Hines testified that during the Park Police briefing of White House staff on the morning of July 21, 1993, Mr. Nussbaum told him that Mr. Foster's office would be "posted" with a security guard. Major Hines assumed that the office had already been secured. (Hines, 7/25/94 Dep. pp. 94-95). Investigator Braun testified that she also requested that Mr. Foster's office be sealed. (Hines, 7/25/94 Dep. pp. 48-49; Braun, 7/23/94 Dep. pp. 107-108, 124). Captain Hume wanted the office sealed to preserve any evidence relevant to Mr. Foster's death. (Hume, 7/22/94 Dep. pp. 183-184). Captain Hume saw that the door to Mr. Foster's office was locked, but testified that he was told by the agent guarding Mr. Foster's office that anyone who wanted to go into the office was allowed inside as long as they signed a log. (Hume, 7/22/94 Dep. p. 237).

⁸³ At that point, Captain Hume stated that he believed the Park Police were still in charge of the investigation. (Hume, 7/22/94 Dep. p. 203).

⁸⁴ Chief Langston had previously attended a conference at which Attorney General Reno said she would return the telephone call of any police chief that called her. (Hume, 7/22/94 Dep. p. 52).

Major Robert Hines also contacted Tom Collier, Chief of Staff to the Secretary of the Interior. The Interior Department has authority over the Park Police. Major Hines believed that this contact was necessary to the investigation, but did not elaborate on this view due to his concern that his statements might undermine the ongoing investigation of the Office of the Independent Counsel regarding the handling of documents in Mr. Foster's office. (Hines, 7/25/94 Dep.

(continued...)

resulting in then-Deputy Attorney General Philip Heymann and Captain Hume having two telephone conversations. In the first conversation, Captain Hume testified that Mr. Heymann identified himself, said he was sending over two Justice Department "career employees," and gave his telephone number to Captain Hume. In the second conversation, Captain Hume said he learned that Justice Department attorneys David Margolis and Roger Adams would be the career employees who would come to the White House. Captain Hume believed Mr. Margolis and Mr. Adams would quickly review the documents for national security issues and then give unprotected documents to the detectives to review.(148) It was clear to Captain Hume at this point that the Justice Department was in charge of the White House phase of the investigation.(149)⁸⁵

Captain Hume and Detective Markland were joined at about 5:00 p.m. in the Executive Office Building by two FBI agents, Mr. Margolis and Mr. Adams.(150) They then walked over to the White House Counsel's suite of offices. While Captain Hume and an FBI agent waited outside, Detective Markland, another FBI agent and the Justice Department attorneys were informed that they would not be allowed to conduct their investigation that day.(151)

The Park Police and FBI returned the next day, July 22, to continue their investigation. Captain Hume and Detective Markland interviewed Mr. Nussbaum, Mr. Neuwirth and executive assistants Deborah Gorham, Betsy Ponds and Linda Tripp about their final contacts with Mr. Foster, who last saw or spoke with Mr. Foster and his last movements prior to his death. White House Counsel Office attorneys Clifford Sloan and Steve Neuwirth were present during the interviews with the executive assistants.(152) Captain Hume was troubled by the presence of Mr. Neuwirth, since Mr. Neuwirth had seen Mr. Foster on July 20 and Captain Hume would normally interview witnesses separately.(153)⁸⁶ In addition, Captain Hume believed it was unusual for

⁸⁴(...continued)

pp. 34-38). He did say, however, that he discussed with an Interior Department attorney the role of the White House Counsel. (Hines, 7/25/94 Dep. p. 149).

⁸⁵ Captain Hume and Detective Markland joked that they were "waiting for permission to do [their] job." (Hume, 7/22/94 Dep. pp. 48-49).

⁸⁶ As Sergeant Rule explained:

(continued...)

attorneys to be present during these types of office interviews.⁸⁷ He also believed Mr. Neuwirth was present only to relay information to Mr. Nussbaum.(154) Captain Hume testified that Mr. Nussbaum interrupted one interview when he burst into the room to ask if everything was all right.(155) According to Captain Hume, Ms. Gorham told him that some White House employees had been called together and were told -- perhaps by Mr. Neuwirth and Mr. Sloan -- that they would be interviewed and that they should tell the truth.(156) Captain Hume also asked about Mr. Foster's activities on July 20th, problems that he may have been having, and telephone calls.(157)⁸⁸

In addition, Captain Hume, Detective Markland, Mr. Nussbaum, Mr. Neuwirth, Mr. Sloan, Mr. Burton, FBI agents Scott Salter and Dennis Condon, Mr. Adams and Mr. Margolis of the Justice Department, and several members of the Secret Service entered Mr. Foster's office.(158) A search was conducted, but the scope of the Committee's investigation precluded a full exploration of the handling of documents in Mr. Foster's office.⁸⁹

⁸⁶(...continued)

If you are going to interview A, B and C and they are all sitting together, A is going to color B's interpretation and C so you want to, obviously, separate them and do it that way whenever possible.

(Rule, 7/29/94 Dep. p. 50).

⁸⁷ Major Hines recalled Captain Hume and Detective Markland mentioning that members of the White House Counsel's Office were present during the interviews, added, "They just told me about it. I didn't take it as a complaint." (Hines, 7/25/94 Dep. pp. 108-109).

⁸⁹ Documents which appear to be probative of the office search were redacted. (See, e.g., Interior Document I36-I37). In addition, White House, Justice Department and Treasury Department officials at the time of Mr. Foster's death were not questioned about the handling of documents in Mr. Foster's office, though some of them were deposed on other matters relevant to communications within the Executive branch regarding Whitewater and Madison Guaranty. These redacted documents and circumscribed depositions are consistent with Senate Resolution 229 and the Committee's decision to postpone its investigation of the handling of documents. (See Senator Riegle, 7/29/94 Hrg. pp. 5-6; Letter from the Office of the Independent Counsel to the Chairman and Ranking Minority Member of the Committee, dated July 15, 1994; S. Res. 229, Section 6(3)(B)).

C. The Ongoing Investigation at the Death Scene

While Captain Hume and Detective Markland were conducting interviews at the White House, Sergeant Rule was attempting to locate the driver of the white van, to search for the missing bullet, and to locate the anonymous caller. Sergeant Rule had officers stake out Fort Marcy Park in search of a white male in a white van with blue writing on the side. Sergeant Rule disseminated a "look out" description of the man in the white van -- the Confidential Witness -- to officers patrolling the George Washington Parkway.(159) Sergeant Rule also directed a detective to go to Fort Marcy Park on subsequent evenings in the hope that the Confidential Witness might return to the park at approximately the same time of day at which he was in the park on July 20.(160) The goal was to identify and question the witness who had first discovered the body.

Sergeant Rule also organized a party to search the death scene for the bullet. On July 22, 1993, four Park Police officers returned to the death scene. They speculated on the possible trajectory of the spent round and conducted a grid search with metal detectors for the bullet in an open field behind the death scene. They also visually searched the outer surfaces of trees in a heavily wooded area behind the open field. The search took about two hours, but they were not able to locate the spent round. Sergeant Rule believed the search was not successful because of the limited number of officers they could assign to the search, the size of the area to be searched and the uncertainty about the trajectory of the bullet.(161)⁹⁰

Sergeant Rule and Detective Morrissette then took to Turkey Run Park an audio recording of the emergency call. A Park Service supervisor recognized the voice of the Park Service employee who made the anonymous telephone call and gave Sergeant Rule the caller's name and work site. The officers then located and

⁹⁰ On April 4, 1994, the FBI searched for the bullet at the request of the Office of the Independent Counsel. They located the death scene by using Park Police photographs, and used surveyors to stake out the area in two and one-half meter grids where the body was found and in five meter grids in the remaining search area. The entire grid area was searched with metal detectors and the area immediately adjacent to where the body was found was hand sifted. "The entire area of the path where the body was found was excavated down to approximately 15-18 inches, the soil and roots removed and then meticulously hand searched by various screening methods. No bone fragments or bullets of any kind were found in this area." Although metal "trash" and Civil War artifacts were found, the "missing bullet" was not located. Twenty-three people participated in this eight-hour search. (OIC Documents 000626-000632, 000781-000782).

questioned the Park Service worker who had made the emergency call. (162) The Park Service worker acknowledged that he made the call, but he was unable to add any significant information beyond the general descriptions of the van and the Confidential Witness that he provided to the dispatcher on July 20.(163)⁹¹

D. The Autopsy

During the Park Police briefing at the White House on July 21, Mr. Foster's colleagues were discussing funeral arrangements when Major Hines told them that an autopsy would be conducted. Mr. Foster's colleagues asked when the autopsy would be performed. Major Hines offered to find out when the autopsy had been scheduled and perhaps to have the autopsy scheduled earlier.(164) Major Hines thought an earlier autopsy would be helpful to the Foster family, since the body had to be transported to Arkansas for the funeral.(165) Major Hines later asked Captain Hume to see if the autopsy could be done on Wednesday, July 21, instead of Thursday, July 22.(166)⁹²

⁹¹ Sergeant Rule and Detective Morrissette did not attempt to locate the Park Service employee's co-worker. Sergeant Rule had "the impression that [The Park Service worker's] friend wasn't in a position to see what [Park Service worker] saw or was further away from this guy with the van and that [the Park Service worker] was basically the person that had the contact with this guy, not his co-worker." (Rule, 7/26/94 Dep. p. 79).

⁹² Captain Hume testified that Major Hines told him that "they" had asked for the autopsy to be done earlier than July 22. Captain Hume interpreted "they" to be the White House. Captain Hume then stated that he called Medical Examiner Dr. James Beyer to relay the request and that Dr. Beyer agreed to conduct the autopsy earlier. (Hume, 7/22/94 Dep. pp. 23, 61-62, 70-71, 256-259; see also Rule, 7/26/94 Dep. pp. 53-57).

Dr. Beyer testified, however, that he did not receive a message asking him to proceed faster than normal: "[A]s 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." (Beyer, 7/29/94 Hrg. p. 215).

Dr. James Beyer, Deputy Chief Medical Examiner for Northern Virginia, performed the autopsy on July 21, 1993.⁹³ Sergeant Rule, Detective Morrissette and two Park Police technicians were also present.⁹⁴ Dr. Beyer conducted the autopsy in the "usual fashion," which he described as follows:

External examination with photographs, documentation of injuries or any other identifying marks, internal examination with opening of the thorax, abdomen and head, collection of body tissues for histological examination and body fluids for toxicology analysis.(167)

Dr. Beyer took Polaroid and 35 millimeter photographs. Mr. Foster's clothing was removed and given to the Park Police for evidentiary purposes.(168) Dr. Beyer concluded that the cause of death was a "[p]erforating gunshot wound to the head with entrance in the mouth, exiting the head" after traveling through "the

⁹³ Dr. Beyer has performed in excess of 20,000 autopsies since 1950. He has extensive experience with conducting autopsies on subjects suffering from gunshot wounds, having conducted battle casualty surveys in Korea and Vietnam, and participating in approximately 8,000 autopsies on battle casualties in Korea, most of whom were the victims of "small arms or fragmentation injuries." He also holds a master's degree in anatomy, and took a residency in pathology while serving in the Army. He established the Medical Examiner's Northern Virginia district office in 1971. (Beyer, 7/13/94 Dep. pp. 6-10).

⁹⁴ The Office of the Medical Examiner requires police to be present during the autopsy whenever "you have a gunshot wound and particularly one that might be of a suspicious character." (Beyer, 7/13/94 Dep. pp. 36-37). It is preferable for the investigator at the death scene to be present at the autopsy, "but sometimes the autopsy may be done the next day and [the investigator] might have worked midnight the night before." (Hines, 7/25/94 Dep. pp. 143-144; see also Smith, 7/26/94 Dep. p. 20).

When Sergeant Robert Rule called Investigator Rolla at home to see if he could attend the autopsy, Sergeant Rule could tell that Investigator Rolla was "beat" and "might have an accident" or "not do as good a job as somebody who was fresh." (Rule, 7/26/94 Dep. pp. 10-11). Since Sergeant Rule and Detective Morrissette had already been briefed on the case, Sergeant Rule decided they would attend the autopsy instead of Investigators Rolla, Braun or Apt, all of whom had worked 24 hours in a row. (Rule, 7/26/94 Dep. pp. 10-11, 57-58). Detective Morrissette, Sergeant Rule and two Park Police technicians attended the autopsy (Interior Document I28).

posterior pharynx."(169)⁹⁵ He also noted "abundant powder debris in the mouth at the entrance site," leading him to conclude "that this was essentially a contact perforating gunshot wound consistent with being self-inflicted."(170) Moreover, Dr. Beyer testified that "[t]here was no evidence of trauma to the body, and with the entrance wound be [sic] located in the mouth the way it was, with abundant powder debris, no trauma to the jaws, no trauma to the teeth, it would be my conclusion that this was self-inflicted."(171)⁹⁶ He also found debris on the right and left hands that he "interpreted grossly as being gunpowder," with more powder being on the right hand than the left

⁹⁵ The term "perforating" indicates a wound in which the missile both enters and exits the body. A "penetrating" wound is a wound of entrance only, because the missile is retained in the body. (Beyer, 7/13/94 Dep. p. 237).

⁹⁶ Dr. Beyer elaborated in the following manner:

[I]t was a perforating gunshot wound to the head with evidence that there was a contact wound in the back of the mouth with gunpowder present in that area. Most wounds of that type are generally self-inflicted.

Dr. Beyer also testified that "[i]t's extremely difficult to inflict that by any other means," because "[m]ost people do not allow a muzzle of a weapon to be placed in their mouth without some signs of struggle." Dr. Beyer saw no signs of struggle during the autopsy. (Beyer, 7/13/94 Dep. pp. 26-27). Furthermore, the police informed Dr. Beyer at the time of the autopsy that a weapon was found in "close vicinity to the body." (Beyer, 7/13/94 Dep. p. 27).

Similarly, the Independent Counsel's Panel of Pathologists concluded that gunpowder residue on the soft palate of Mr. Foster's mouth indicated that the victim "placed the barrel of the weapon into his mouth with the muzzle essentially in contact with the soft palate when he pulled the trigger." Recovery of Mr. Foster's DNA type from the muzzle of the revolver connected the weapon with the deceased. The Panel noted that "it is exceedingly unlikely that an individual of Mr. Foster's physical stature (6 feet 4 1/2 inches in height, 197 pounds in weight) could have been overcome by an assailant inflicting an intraoral gunshot wound without a struggle and there not to have been some other injury sustained at the time." (Fiske Report, Exhibit 3, sections 1 and 2).

hand.(172)⁹⁷ Dr. Beyer testified that no X-ray was taken because the machine was not functioning properly and because he did not believe the delay in sending the body to another facility for an X-ray was necessary in the absence of

⁹⁷ The Independent Counsel's Panel of Pathologists also noted the presence of gunpowder on Mr. Foster's hands in making determinations about the position of the weapon at the time it was fired:

Scene and autopsy photographs demonstrate that Mr. Foster's right thumb was trapped and compressed between the trigger and the front of the trigger guard. In addition, there was gunpowder residue on the surface of his right index finger facing the thumb, extending from the distal joint to the web area of the thumb and, according to the autopsy report, similar material, but of a lesser quantity, at the corresponding aspect of the left index finger. With the barrel of the revolver placed into the decedent's mouth, the only source of gunpowder would be the gap between the cylinder and the frame of the weapon. Multiple test firings of the revolver in the FBI laboratory conclusively demonstrated that gunpowder residue escapes from its cylinder gap. The laboratory studies and the anatomic findings indicate the Mr. Foster's index fingers were in the vicinity of the cylinder gap when the weapon was fired.

(Fiske Report, Exhibit 3, section 8).

a penetrating wound.⁹⁸ He was unable to estimate time of death.(173)⁹⁹

Dr. Beyer took microscopic examinations of tissues from the decedent, and sent samples to the toxicologist. Dr. Beyer finalized the autopsy report on July 28, 1993.(174) The toxicologist also submitted a report, which found no

⁹⁸ As Dr. Beyer testified:

We had a new machine. It had not been operating properly. As I say, if I wanted to get an X-ray, I would have had to send the body back to another installation, which then would have delayed the whole procedure for perhaps 24 hours. Since it was a perforating wound, I decided to go ahead without the X-ray.

(Beyer, 7/13/94 Dep. pp. 38-39; Beyer, 7/29/94 Hrg. pp. 236-239). After stating a preference for taking X-rays in all gunshot wound cases, Dr. Beyer continued:

If it's a penetrating wound, it may help us in locating the missile. If it's a perforating wound, it would indicate, from the X-ray alone, that there was no missile present. But once you do the complete head examination and examination of the brain, you can rule out the presence or absence of a missile.

(Beyer, 7/13/94 Dep. pp. 39-40).

The autopsy report erroneously indicated that an X-ray was taken in this case. (Beyer, 7/29/94 Hrg. pp. 236-240; see also Hines, 7/25/94 Dep. pp. 142-144). Detective Morrissette's report also indicates he was told that X-rays were taken and that there were no bullet fragments in Mr. Foster's head. (Interior Document I28). Sergeant Rule, who was also present during the autopsy, does not recall X-rays being taken. (Rule, 7/26/94 Dep. pp. 12, 72-74).

⁹⁹ According to Detective Morrissette's report, Dr. Beyer indicated that Mr. Foster had eaten a large meal about "2-3 hours prior to death." (Interior Document I28). Betsy Ponds recalled that Mr. Foster finished his lunch at about 1:00 p.m. and then left the office. (Interior Document I30). Dr. Hirsch testified that it was not possible to "fix the time of death any more precisely than the integral [sic] between when Mr. Foster was last seen alive and when his body was discovered." (Hirsch, 7/29/94 Hrg. pp. 175-177).

alcohol or drugs in Mr. Foster's blood.¹⁰⁰ Dr. Beyer testified that he handled all autopsies in the same manner, whether or not the decedent is a "high-profile" individual.(175)¹⁰¹

E. Mr. Foster's Personal Property

1. The Gun

After Technician Simonello recovered the weapon at the death scene, he took it to the Park Police laboratory, wrapped the barrel in brown craft paper, secured the paper with rubber bands and attached a note saying either "Do not touch" or "Do not disturb."(176) He then placed the gun in an evidence locker and went on leave for several days. Captain Hume told Sergeant Rule to have the gun processed immediately, instead of waiting until Technician

¹⁰⁰ The FBI laboratory's toxicological examination of Mr. Foster's blood revealed trace amounts of Trazadone and small quantities of diazepam (Valium) and its metabolite, nordiazepam. The finding of Trazadone, an anti-depressant, confirmed that Mr. Foster took a single tablet the evening prior to his death. In addition, there was no alcohol or any other toxic substance in Foster's body. Mrs. Foster stated that there was valium in their home, but she was not aware of her husband taking any. (Fiske Report, p. 43).

¹⁰¹ The Office of the Independent Counsel's Panel of Pathologists examined samples from the Foster autopsy and reviewed Dr. Beyer's report. The pathologists concluded that Foster's death was caused by a bullet wound to the head and brain. The postmortem findings were consistent with findings in deaths due to "intentional self-inflicted intraoral gunshot wounds." Additional examination found no other trauma that would suggest any conclusion other than suicide.

The Panel of Pathologists also found that the bullet "perforated the soft palate, entered the cranial cavity directly to the left of the foramen magnum, contused the left side of the brain stem, grazed the medial aspect of the left cerebral hemisphere and exited through the occipital skull and scalp. This wound caused instantaneous, complete incapacitation, followed by clinical death within a matter of minutes." (Fiske Report, pp. 48-52 & Exhibit 3).

Given the limitations of the available information it was not possible for the pathologists to ascertain the precise time of death. (OIC Documents 000737-000740; OIC Documents 000098-000102; Monroe, 7/29/94 Hrg. pp. 110-111; Hirsch, 7/29/94 Hrg. pp. 126-127, 160-162).

Simonello returned from leave. Sergeant Rule assigned evidence technician Eugene Smith to check the gun for possible fingerprints.¹⁰² Technician Smith spoke with Captain Hume directly, then attempted to lift fingerprints from the gun.(177)¹⁰³ Technician Smith dusted the gun with powder, then used

¹⁰² Technician Smith testified that he did not ask Sergeant Rule why he was being asked to process the gun, but that he told Captain Hume that Technician Simonello had the gun wrapped up. (Smith, 7/26/94 Dep. pp. 7-8). Smith also testified that he believed, but was not sure, that DNA and blood examinations could still be conducted on a gun after it has been "dusted" for fingerprints and that he did not know if any evidence was lost when he processed the gun. (Smith, 7/26/94 Dep. pp. 24, 25-26). He told the Office of the Independent Counsel, however, that he informed Captain Hume that dusting the gun for latent fingerprints could interfere with laboratory examinations related to serology, DNA and fibers. (OIC Document C00384).

Technician Simonello testified that he was angry the gun had been processed. He did not realize the FBI has developed techniques that allow the recovery of trace evidence after a gun has been dusted for fingerprints. (Simonello, 7/14/94 Dep. p. 144). According to Technician Simonello, Captain Hume ordered the gun to be fingerprinted because "[t]here was a lot of pressure coming down." (Simonello, 7/14/94 Dep. pp. 126-27).

Captain Hume testified that he was not pressured to have the gun fingerprinted, but felt that the information could be important in what had become a "significant" investigation. (Hume, 7/22/94 Dep. pp. 66-69, 261-272). Captain Hume added that normally Technician Simonello would have determined what forensic analysis was appropriate for the gun, but that Technician Simonello "elected to put [the gun] away and go home. I don't remember anyone even getting a note from him that I'm going on leave, you know, here's what I want done with this weapon." (Hume, 7/22/94 Dep. pp. 263-64). Captain Hume later confronted Technician Simonello about not fingerprinting the gun before going on leave for several days. (Rule, 7/29/94 Dep. pp. 21-22, 80-85; Hume, 7/22/94 Dep. pp. 66-69, 261-272).

¹⁰³ Technician Smith has been a Park Police technician since 1978 and has processed about 100 guns for fingerprints during that time. (Smith, 7/26/94 Dep. p. 6).

lifting tape to place the powder on a lifting card. He was, however, unable to recover any fingerprints.(178)¹⁰⁴

The gun was later sent to the Bureau of Alcohol, Tobacco and Firearms ("ATF") for ballistics tests, gunpowder tests, residue pattern tests and any other appropriate tests.(179)¹⁰⁵ The ATF tests concluded that the gun was operable, that the two rounds in the gun were of similar manufacture, that the round was fired in the recovered gun, and that the gunpowder pattern was consistent with the pattern of gunpowder found on the decedent's hand and clothing.(180)¹⁰⁶

¹⁰⁴ Technician Smith explained that fingerprints are not always recovered from guns because "some people sweat, some don't, it depends on the surface, the temperature there are numerous reasons." (Smith, 7/26/94 Dep. p. 8). Technician Smith estimated that he has recovered fingerprints from guns no more than 30 percent of the time. (Smith, 7/26/94 Dep. p. 9).

The FBI laboratory also attempted to recover fingerprints from the gun. They recovered a fingerprint from underneath the gun's handle grips, which Technician Simonello had removed to engrave his initials on the handle for identification purposes. (Simonello, 7/14/94 Dep. pp. 20-21). The FBI gave the following possible explanations as to why Mr. Foster's fingerprints were not present on the gun: weather conditions (it was a very hot day), absence of "transferable substances" (he may have washed his hands shortly before handling the gun) or excessive handling. (OIC Documents 000622-000623).

¹⁰⁵ The Park Police closed the case six days before the ATF completed its report on the analysis of the gun. (Treasury Document T6298).

¹⁰⁶ The FBI laboratory test results obtained at the request of the Office of the Independent Counsel are as follows: the DNA found near the muzzle of the gun was the same type as the DNA in Mr. Foster's blood sample. The gunpowder residue on Mr. Foster's shirt, soft palate, and right hand was physically and chemically similar to the gunpowder remaining in the empty cartridge case of the gun. (Fiske Report, Exhibit 1).

Gunpowder residue found on the socks and shoes of Mr. Foster was "not consistent with having originated from a fired cartridge," indicating that it came from a different source. Technician Simonello stated that, although the Park Police take precautions to protect evidence from contamination, contamination -- particularly by microscopic particles -- was a "possibility," since they have a small
(continued...)

Mrs. Foster examined the revolver recovered from Mr. Foster's hand and stated that it may have been a gun which she had seen in her Little Rock residence.¹⁰⁷ One of Mr. Foster's sisters stated she believed the gun had been previously owned by her father and inherited by her brother.(181)

2. The Diary and Other Documents

Investigator Rolla and Lieutenant Kass went to the office of Foster family attorney James Hamilton to review Mr. Foster's diary. The diary was a hard-bound book with lined pages, none of which had been removed from the book.(182) The first several pages were blank, followed by about 10 to 15 pages with writing.(183) Investigator Rolla read every entry in the

¹⁰⁶(...continued)
facility and a large volume of examinations. (OIC Documents 000378-000379).

The mark on Mr. Foster's right thumb is consistent with a mark produced by the gun's trigger when the thumb is wedged between the trigger and the trigger guard; the position of the gun in the photographs is consistent with pulling the trigger with the thumb. (Fiske Report, Exhibit 1).

¹⁰⁷ Mrs. Foster had seen a silver colored handgun inside a travel trunk when she was packing for the family's move to Washington. She believes this may have been one of the guns Mr. Foster inherited and retrieved after his father's funeral. She also recalled that she had seen 12 gauge and 20 gauge shotgun shells, .22 caliber ammunition and possibly some small handgun ammunition at her house in Little Rock. She did not recall seeing the gun or any ammunition at their Washington home. While unpacking the gun in Washington, Mrs. Foster saw the gun and commented on it. She told Mr. Foster that she did not want any guns in her house in Washington, though she had not discussed the matter with him before then. She believes that her husband did not like guns, and she was certainly opposed to them. Nevertheless, Mr. Foster's father had given guns to Mrs. Foster's sons and Mr. Foster kept a gun in their bedroom closet in Washington. She did not believe her husband carried a gun in the family car or to work.

After being notified of her husband's death on July 20, she found the gun Mr. Foster kept in their closet, but noted that it was not the silver gun she had seen when packing in Little Rock. She believed the gun found in Fort Marcy Park may be the gun which she brought to Washington with the rest of the family's belongings. (OIC Documents 000285-000287).

diary.(184) The entries span the time between the Presidential election in November 1992 and the Presidential inauguration in January 1993.(185) Investigator Rolla reviewed Mr. Foster's diary but found nothing significant in the document. Investigator Rolla also reviewed some of Mr. Foster's financial documents; he found no indications of financial difficulties, large losses of money or large withdrawals of cash.(186) Finally, Investigator Rolla and Lieutenant Kass obtained a sample of Mr. Foster's handwriting for comparison with the torn note that was retrieved from Mr. Foster's office.(187)

3. The Pager

When Investigator Rolla recovered the pager from Mr. Foster's body, he noted that the pager was turned off.(188) He took the pager to his office, recorded the pager's brand name and serial number, and listed it on an evidence form.(189) A Secret Service agent came to Park Police headquarters later that night and Investigator Rolla gave him the pager. Investigator Rolla did not check the pager to see if it had stored any information.(190) He released the pager to the Secret Service because he felt he had "no further use for it."(191) He reasoned that if it ever became necessary to determine who had paged Mr. Foster on the day of his death, "the FBI could have taken [Rolla's] report and taken the serial number to the pager company and subpoenaed the pager records and got all the calls that were paged to him." (192)¹⁰⁸ Even if Investigator Rolla had checked the pager for messages, he would not have recovered any additional information. According to Colonel Thomas Hawes of the White House Military Communications Office, Mr. Foster's pager had memory capability, but the memory was erased whenever the pager was turned off.(193)

4. The Torn Note

On July 27, 1993, Mr. Margolis of the Justice Department contacted Captain Hume to notify him that the White House had found a torn note in Mr. Foster's office. Captain Hume sent Detective Joe Megby to the White House to pick up the note.(194) When Detective Megby received the note, it had been torn into 27 pieces, with at least one additional piece missing.(195) Captain

¹⁰⁸ According to FBI Special Agent William Colombell, the Office of the Independent Counsel used a grand jury subpoena to obtain information regarding who may have paged Mr. Foster on the date of his death. Rule 6(e) of the Federal Rules of Criminal Procedure, however, prevents the Office of the Independent Counsel from commenting at this time on either the substance of or the response to the subpoena. (Letter to the Committee Chairman and Ranking Member, dated October 17, 1994, from William Colombell, paragraph 7).

Hume did not touch the note, which was delivered to him in either a bag or an envelope, but gave it to a technician to process for fingerprints. At the request of the Park Police, a U.S. Capitol Police handwriting expert determined that the handwriting on the note matched Mr. Foster's known handwriting sample.(196)¹⁰⁹ Apparently, Mr. Neuwirth found the note while preparing an inventory of Mr. Foster's personal effects. As he was preparing to place Mr. Foster's personal items in Mr. Foster's briefcase, he turned the briefcase upside down and pieces of the note fell out of the case. Mr. Neuwirth tried to put the pieces back together.(197) Captain Hume and Detective Markland went to the White House several days later and asked Mr. Nussbaum if they could look in the briefcase for a missing piece of the note.(198) Chief Langston directed Captain Hume to give the note to the FBI. After having the note photographed, Captain Hume complied.(199) A palm print was later recovered from the note, but the print was never identified.(200) A fingerprint was also recovered but it was "unidentifiable."(201)

Upon viewing a photocopy of the handwritten note, Mrs. Foster confirmed that Mr. Foster had written the note. She believed he had written it at her suggestion about a week or so before his death, and that he may have done so in preparation for any upcoming Congressional investigation.(202)¹¹⁰

5. Personal Effects

Either Mr. Sloan or Mr. Neuwirth called Detective Markland and Captain Hume to ask if the Park Police would send Mr. Foster's personal effects to the White House before the President left the country. The President apparently wanted to return the personal effects to the Foster family. Captain Hume then called Investigator Rolla at home to find out how they could get the property out of the evidence locker. Investigator Rolla told Captain Hume where he kept his spare key to the evidence locker.(203) On July 21, Detective Markland made photocopies of items such as Mr. Foster's driver's license, credit cards, jewelry and a note with various numbers and the letters C, B and H written on it. He then

¹⁰⁹ Captain Hume believed that a chemical used in the fingerprint analysis causes the paper to become discolored, so handwriting analysis is completed before fingerprint analysis is begun. (Hume, 7/22/94 Dep. p. 285).

¹¹⁰ Mrs. Foster recalled that after she suggested writing the list Mr. Foster said that he had not resigned yet and that he had already written his opening argument in his defense. Mrs. Foster believes that the torn note was actually an outline for his opening statement in the event he had to testify before Congress regarding the White House Travel Office. (OIC Document 000284).

gave the items to Mr. Sloan.¹¹¹ Captain Hume agreed to return the personal effects to the Foster family, not because he felt any pressure to do so but because it was the proper thing to do under the circumstances and did not compromise the investigation in any way.¹¹²

6. The Eyeglasses

Mrs. Foster said that the eyeglasses found near her husband's body appeared to be his, noting that they had bite marks on the tips of the stems, which was consistent with Mr. Foster's habit of biting his glasses. The FBI laboratory also found that the prescription for the recovered eyeglasses was consistent with Mr. Foster's prescription at the time.(204)

7. The Clothing

Mr. Foster's clothing was removed at the time of the autopsy and given to technicians Shelly Hill and Wayne Johnson.(205) The clothes were then taken to the Park Police station, listed on an evidence form, and spread out on evidence paper to dry in a secured room.(206)¹¹³

¹¹¹ Investigator Rolla believed that if the Park Police had returned the personal effects directly to the Fosters, it would have provided an opportunity to question the family about Mr. Foster. (Rolla, 7/21/94 Dep. pp. 172-174).

¹¹² Captain Hume stated that they would quickly return personal effects "for any family member" because "[i]t's the right thing to do," especially since Mr. Foster's family was also "the victim" of his suicide and the Park Police are "very conscious and aware of victims." (Hume, 7/22/94 Dep. pp. 69-70, 254-255).

¹¹³ The FBI concluded that there was too little blood for conclusive results found on Mr. Foster's gun, jacket, tie, pants, socks, shoes, or handkerchief. (Fiske Report, p. 43).

Hair and fiber analysis revealed that blond to light brown hairs of Caucasian origin which are dissimilar to the head hairs of Mr. Foster were found on his shirt, pants, belt, socks, and shoes. Carpet type fibers of various colors were also found. Mr. Foster's wife and daughter both have blonde hair and frequently used the car Foster drove to Fort Marcy Park. White, tan, gray, blue, red and green carpet fibers were found on Foster's tie, shirt, shorts, shoe, handkerchief and the paper the Park Police used to store Foster's clothes. No attempt was made to compare these carpet fibers or hairs with known samples. (Fiske Report, p. 46).

F. The Subsequent Interviews

After interviewing Mr. Foster's colleagues at the White House, the Park Police spoke with Mr. Foster's wife, sister and brother-in-law. The Park Police also contacted people who had left messages for Mr. Foster shortly before his death.

1. Mrs. Foster

Nine days after Mr. Foster's death, Captain Hume and Detective Markland interviewed Mrs. Foster after she returned from the funeral in Arkansas. Foster family attorney James Hamilton, Beryl Anthony and a family friend were also present.⁽²⁰⁷⁾¹¹⁴ Mrs. Foster explained that work-related stress was adversely affecting her husband, that he could not sleep, that he was experiencing high blood pressure and was not feeling well. Mrs. Foster also felt that her husband was unable to relieve the pressure as he had in Arkansas because he was no longer in charge, and his work schedule precluded relaxation with his family. Yet his loyalty to the Clintons and his concern about possible personal humiliation prevented him from feeling that he could leave the White House and return to Arkansas.⁽²⁰⁸⁾ Mrs. Foster told Captain Hume that her husband was troubled before his death and that she believed he committed suicide.⁽²⁰⁹⁾¹¹⁵

¹¹⁴ Captain Hume commented on the fact that he had never investigated an apparent suicide in which attorneys were present for interviews with family and friends. (Hume, 7/22/94 Dep. pp. 219-220, see also Rule, 7/26/94 Dep. p. 51). Major Hines noted that given the intense media interest in Foster's death, it was not unusual to have lawyers present. He also noted that Mrs. Foster met and spoke voluntarily with the investigators. (Hines, 7/25/94 Dep. pp. 121-125).

¹¹⁵ According to Captain Hume, Mr. Hamilton refused to allow the Park Police to interview any of the Foster children. (Hume, 7/22/94 Dep. p. 94) Major Hines noted that the Park Police do not always interview decedent's children because they sometimes get sufficient information about the decedent's state of mind from the wife and because the children are sometimes more adversely impacted than the wife. (Hines, 7/25/94 Dep. p. 55). Major Hines did not believe it was necessary to question the Foster children. (Hines, 7/25/94 Dep. pp. 120-121). He believed, however, that "the children should have been made available if [Captain Hume and Detective Markland] needed to talk to them." (Hines, 7/25/94 Dep. pp. 141-142).

Captain Hume testified that he did not ask certain sensitive questions due to his concern about Mrs. Foster's "suffering and grieving." If, however, the evidence had indicated that Mr. Foster's death might not have been a suicide, he would have asked more direct questions, and sought "subpoenas or . . . grand jury directives" for bank records, public records or other information that might have assisted in the investigation.(210)¹¹⁶ He said he felt that Mr. Foster was a successful person and that the "classical" things that "jump out at" a detective - such as financial or family crisis -- were not present.¹¹⁷ The list of three psychiatrists found in Mr. Foster's wallet was the only evidence in Captain Hume's opinion that might be considered a "classical" indicator.(211) Captain Hume was also concerned that some of the people he interviewed "wanted to downplay" Mr. Foster's depression because "there's still a stigma on that."(212)

2. Beryl Anthony

On July 27, 1993, Investigator Rolla and Captain Hume interviewed Mr. Foster's brother-in-law, Mr. Anthony.(213) Mr. Foster had lived with Mr. Anthony and his wife, Sheila, when Mr. Foster first moved from Arkansas to Washington. The Anthonys watched Mr. Foster become increasingly depressed. On or about July 12, 1993, when Mr. Anthony last spoke to Mr. Foster, Mr. Foster asked Mr. Anthony to recommend attorneys who might represent him in the event of a Congressional hearing on the White House Travel Office firings. Mr. Foster told Mr. Anthony shortly before his death that he had spent a lifetime building his reputation, only to have it tarnished. The Anthonys became so concerned about Mr. Foster that Mrs. Anthony recommended three psychiatrists that Mr. Foster might see for counseling.(214)

3. Other Interviews

The Park Police checked Mr. Foster's telephone message logs for July 19 and 20, 1993. They found that Dr. Watkins had left a message for Mr. Foster on July 19, 1993. Brantley Buck, Jim Lyons and Gordon Rather all called Mr. Foster

¹¹⁶ Major Hines noted that the Park Police never had any indication that Mr. Foster had any domestic problems or serious physical health problems, and that it therefore would not have been appropriate to ask Mrs. Foster about sensitive matters. (Hines, 7/25/94 Dep. p. 120).

¹¹⁷ By contrast, Major Hines felt that the "telltale signs" of depression started to emerge after Mr. Foster's family members and co-workers were interviewed. (Hines, 7/25/94 Dep. pp. 53-54).

on July 20.(215) On August 2, the Park Police contacted Dr. Watkins, who informed them that Mr. Foster had told him that he was under a great deal of stress, that he had lost his appetite, that he was losing weight and that he felt depressed. Dr. Watkins prescribed the antidepressant Desyrel, generic name Trazadone.(216)

Mr. Buck, a partner in the Rose Law Firm, tried to call his former partner on July 19. Mr. Foster returned the call, but did not speak with Mr. Buck. Mr. Lyons had called Mr. Foster to let him know when he was arriving in Washington on July 21. He did not speak to Mr. Foster that day, but he had spoken to Mr. Foster on July 18 and they had agreed to a meeting. Mr. Rather, an attorney in Little Rock, called to discuss items of interest to the American Board of Trial Advocacy, such as the selection of Federal judges. Mr. Rather was also unable to reach Mr. Foster.(217)

The Park Police also interviewed the man who, on July 20, 1993 at about 4:15 or 4:30 p.m., saw a dark metallic gray Japanese sedan swerve across the George Washington Parkway and turn abruptly into Fort Marcy Park. He recalled that the car had an Arkansas or Ohio license plate and was being driven by a single white male.(218)

G. Closing the Investigation

At the end of the Park Police investigation, Captain Hume was told either by Chief Langston or Major Hines that the Justice Department wanted the Park Police and FBI investigations to close at the same time.(219)¹¹⁸ The Justice Department wanted to issue a joint press release at a press conference including the Park Police, the FBI and the Justice Department. Mr. Margolis requested a synopsis of the case, which the Park Police do not typically write, and Captain Hume assigned Detective Markland to complete that task.(220) Captain Hume also sent a copy of the Park Police case file to Mr. Margolis.(221)

Major Hines reviewed Detective Markland's recommendation that the case be closed, and Major Hines proposed no changes in the report.(222) In the report, Detective Markland wrote that in the last two weeks of Mr. Foster's life, Mr. Foster was "experiencing a great deal of difficulty handling the stress

¹¹⁸ Major Hines was not aware of the Park Police planning to close the case but being asked by the Justice Department to wait so that both agencies could close their cases jointly. (Hines, 7/25/94 Dep. p. 26). He did recall, however, that the Justice Department contacted the Park Police to arrange the joint press conference. (Hines, 7/25/94 Dep. pp. 29-30).

associated with his office," had considered seeking psychiatric help and had begun taking Trazadone. The report adopted the medical examiner's finding that the cause of death was a perforating gunshot wound in Mr. Foster's mouth and requested that the manner of death be ruled a suicide.(223)

A few days after the Park Police turned over their report to the Justice Department, a press conference was scheduled.(224) On August 10, 1993, former Deputy Attorney General Heymann released the text of Mr. Foster's note to the media.(225)¹¹⁹ The Park Police and the FBI published their joint conclusion that Mr. Foster committed suicide. As Chief Langston said:

The condition of the scene, the medical examiner's findings and the information gathered clearly indicate that Mr. Foster committed suicide. Without an eyewitness, the conclusion of suicide is deduced [sic] after a review of the injury, the presence of the weapon, the existence of some indicators of a reason, and the elimination of murder. Our investigation has found no evidence of foul play. The information gathered from associates, relatives and friends provide us with enough evidence to conclude that . . . Mr. Foster was anxious about his work and he was distressed to the degree that he took his own life.(226)

Robert Bryant, head of the FBI's Washington Field Office, stated that the FBI "followed [the death investigation] from the time [they] were notified until [they] were basically of the opinion, along with Chief Langston's staff, that this was a suicide."(227) Mr. Bryant explained that "it became reasonably apparent that it was a suicide" while the FBI and the Park Police were investigating the case together.(228) The FBI withdrew from the case as they "became convinced that it was, in fact, a suicide."(229)

¹¹⁹ Former Deputy Attorney General Heymann announced that the FBI had been ordered to investigate the time lag between the discovery of the Foster note and the delivery of the note to the Park Police. The Justice Department's Office of Professional Responsibility and Public Integrity Section had also been assigned to review issues referenced in Foster's note -- i.e., the Travel Office matter, the claim that the "FBI lied in their report" to the Attorney General and the claim that the "Ushers Office plotted to have excessive costs incurred." (OIC Documents 000554-000578).

Park Police Investigative Procedures

At the time of Mr. Foster's death, the Park Police had few specific written procedures about how a death scene should be investigated.(230)¹²⁰ The Park Police, however, had General Order 2310 in effect at the time of Mr. Foster's death and it governed the investigation.¹²¹

The five-page General Order is outlined below. Each of the four primary provisions is followed by a summary of relevant aspects of the Park Police investigation

1. Preserve evidence. The General Order directs the first officer at the scene to assist any victim, provide the location of the incident to the police dispatcher, secure the "focal point" of the incident, exclude all non-essential personnel, prevent civilians from handling any potential evidence, note any alterations of the scene and identify witnesses for questioning.(231)

Officer Fornshill testified that, after hearing the dispatcher indicate that a dead body had been found at Fort Marcy Park, he went to the park, located the body, contacted the paramedics in the park and allowed the paramedics to determine if medical assistance was needed.(232) After the paramedics concluded that Mr. Foster was dead, Officer Fornshill advised the dispatcher that a dead body had been located.(233) Officer Fornshill "maintained the integrity" of the death scene until he was relieved by Officer Ferstl and Sergeant Edwards, who responded to the death scene within a few minutes.(234)

¹²⁰ New investigators learn how to conduct investigations by being paired with more experienced investigators and by receiving training at police schools that focus on homicide, death and sex crime investigations, and the Federal Law Enforcement Training Center in Glencoe, Georgia. (Hume, 7/22/94 Dep. p. 193; Braun, 7/23/94 Dep. pp. 47-49).

¹²¹ Major Hines testified that the General Orders are "fairly general and give some broad guidelines to help -- if anything, refresh an officer's memory, because when they go to police school, in Georgia, they receive very detailed instructions. And if they keep their notebooks -- you just can't walk around with five or six notebooks with you all the time, so the general orders are basically covering some, covers some policies to follow, cover some basic procedures, and they're fairly generic." (Hines, 7/25/94 Dep. p. 137; see also Rolla, 7/21/94 Dep. pp. 187-188).

Officer Ferstl retrieved crime scene tape from his cruiser and then taped off the death scene.(235)¹²² There were no civilians at the death scene.

2. Contact the Criminal Investigations Bureau. In cases involving a death, the General Order requires an officer to call for a detective or investigator to direct the investigation, question witnesses, contact necessary personnel, direct the activities of the crime scene search officers (or evidence technicians) and coordinate the collection and preservation of evidence.(236)

Investigators Braun and Rolla heard the dispatcher relay Officer Fornshill's transmission about locating a dead body and requesting the Criminal Investigations Bureau to come to Fort Marcy Park.(237) The investigators went to Fort Marcy Park, where they were briefed by officers at the scene.(238) Under the direction of Investigators Braun and Rolla, the Park Police interviewed witnesses on the scene;(239) took Polaroid and 35 millimeter photographs of the death scene and Mr. Foster's car;(240) collected and preserved key evidence (Mr. Foster's gun, eyeglasses and personal effects);(241) searched the car for identification and additional evidence, sealed the car and towed it to headquarters;(242) notified the hospital and medical examiner that they had a dead body;(243) contacted their superior officers upon learning that Mr. Foster was a White House employee so that the Secret Service could be notified;(244) checked the body for wounds and signs of struggle;(245) and notified Mr. Foster's family of his death.(246)

The Park Police gave Mr. Foster's pager and personal effects to the White House on July 21, 1993 after recording relevant information about the pager and making photocopies of the personal effects.(247)¹²³ Technician Smith

¹²² As Major Hines testified, Officers Fornshill and Ferstl "[n]otified their superiors, notified the criminal investigation branch, as they're supposed to, secured the crime scene, started the process of securing the crime scene." (Hines, 7/25/94 Dep. p. 133).

¹²³ As discussed previously, Investigator Rolla did not check the pager to see if it had stored any information, but he believed that if it had ever become necessary to find out who had paged Mr. Foster on the day of his death, "the FBI could have taken [Rolla's] report and taken the serial number to the pager company and subpoenaed the pager records and got all the calls that were paged to him." (Rolla, 7/29/94 Hrg. p. 214).

(continued...)

processed the gun, at the direction of Captain Hume, while Technician Simonello was on leave, even though Technician Simonello had left a note on the gun asking that it not be touched.¹²⁴ Technician Smith recovered no fingerprints from the gun. The gun was sent to ATF for further analysis. The Park Police closed the investigation before ATF filed its report on its analysis of the gun.

¹²³(...continued)

The Office of the Independent Counsel used a grand jury subpoena to obtain this pager information, but cannot disclose whatever information may have been obtained due to Rule 6(e) of the Federal Rules of Criminal Procedure. (Letter from William Colombell to the Committee, dated October 17, 1994). Moreover, Colonel Thomas Hawes of the White House Military Communications Office informed the Office of the Independent Counsel that the pager's memory was erased whenever the pager was turned off. (Letter of William Colombell to the Committee, dated October 17, 1994). Mr. Foster's pager was turned off when Investigator Rolla recovered it from him. (Rolla, 7/21/94 Dep. p. 20).

As for the personal effects, Captain Hume testified that he agreed to return them after Detective Markland made photocopies because "that was the proper thing to do" and because it did not compromise the investigation. (Hume, 7/22/94 Dep. pp. 69-70). Technician Simonello testified that "[t]here's pressure for us to hand things over and my feeling is we don't hand anything over until we're done." (Simonello, 7/14/94 Dep. p. 121).

¹²⁴ Technician Simonello testified that he was angry the gun had been processed. He did not realize the FBI has developed techniques that allow trace evidence to be recovered after a gun has been dusted for fingerprints. (Simonello, 7/14/94 Dep. p.144). According to Technician Simonello, Captain Hume ordered that the gun be printed because "[t]here was a lot of pressure coming down." (Simonello, 7/14/94 Dep. pp. 126-27).

As described earlier, Captain Hume testified that he was not pressured to have the gun fingerprinted, but felt that the information could be important in what had become a "significant" investigation. (Hume, 7/22/94 Dep. pp. 66-69, 261-272). Captain Hume added that normally Technician Simonello would have determined what forensic analysis was appropriate for the gun, but that Technician Simonello "elected to put [the gun] away and go home. I don't remember anyone even getting a note from him that I'm going on leave, you know, here's what I want done with this weapon." (Hume, 7/22/94 Dep. pp. 263-64). Captain Hume later confronted Technician Simonello about failing to fingerprint the gun before going on leave for several days. (Rule, 7/29/94 Dep. pp. 21-22, 80-85; Hume, 7/22/94 Dep. pp. 66-69, 261-272).

3. Redirect all media contacts. The General Order requires media inquiries at the crime scene to be directed to the Officer in Charge (OIC) or the designated public information officer.(248)

The media was not notified of Mr. Foster's death until later that night. The field commander, Lieutenant Gavin, called his supervisor, Major Hines, who handles media relations for the Park Police. Major Hines called Mr. Burton at the White House and offered not to release Mr. Foster's name until Mr. Foster's next of kin had been notified.(249) Lieutenant Gavin faxed a press release to former White House Press Secretary Dee Dee Myers.(250) According to Major Hines, the Park Police did not begin to receive media inquiries until approximately 12:30 a.m. on July 21.(251)

4. Role of the Officer in Charge (OIC). According to the General Order, the OIC should, when appropriate, establish a field command post, redirect traffic, coordinate searches of fleeing suspects, act as a liaison with the media and submit preliminary reports to the field office commander whenever a "significant incident" occurs or information is released to the media.(252)

According to Investigator Rolla, Lieutenant Gavin was the field commander that night, and was therefore in charge of all Park Police personnel "on the street."(253) Lieutenant Gavin went to the park after hearing the dispatcher report that a dead body had been found.(254) He stayed at the park about 30-45 minutes, ensuring that witnesses were interviewed and vehicles in the parking lot were checked.(255) Lieutenant Gavin contacted the White House after learning that Vincent Foster was a White House employee, and coordinated the Park Police press release with Major Hines and the White House.(256) There was no traffic to redirect, because cars could not be driven to the death scene.(257) Written reports were submitted to Major Hines, Captain Hume and other Park Police officials after the investigators returned to the station on the morning of July 21.

The Death Investigations Guidelines Manual

On July 20, 1994, the Park Police issued an internal manual containing more specific guidelines for conducting death investigations. The 21-page manual contains a step-by-step approach to all death investigations and a separate section on suicide investigations. These guidelines were not in effect at the time the Park Police conducted its investigation of Mr. Foster's death.(258)

Nevertheless, the appropriate guidelines of the internal manual are set forth below, and are followed by relevant aspects of the Park Police investigation of Mr. Foster's death.

1. Notify the next of kin, the prosecutor and the medical examiner, describe the scene and list all persons at the scene.

Investigators Rolla and Braun notified Mrs. Foster of Mr. Foster's death immediately after completing their investigation at the death scene and the hospital. The medical examiner was notified of the death and arrived at the death scene approximately an hour after the investigators arrived there.(259)

In their reports, Investigators Rolla, Hodakievic and Braun described the death scene and listed all potential witnesses who were in Fort Marcy Park.(260)

2. Photograph the scene and body with Polaroids, 35 millimeter film and videotape, sketch the crime scene, determine the need for aerial photographs and special equipment (such as metal detectors).

The Park Police took Polaroid and 35 millimeter photographs at the death scene, but the 35 millimeter film was underexposed and of little evidentiary value. Using the Polaroid photographs, the FBI was able to determine the location of Mr. Foster's body when they conducted a search for the bullet about nine months after Mr. Foster's death. The Independent Counsel's Panel of Pathologists used the Polaroid photographs to help determine that Mr. Foster's body had not been moved from the death scene until paramedics carried him away. The Panel of Pathologists also used the Polaroid photographs to draw conclusions about the position of Mr. Foster's head, the amount of foliage around the body, the presence of scattered stipple material on the face, gunpowder on the hands, and the way in which the gun was trapped on Mr. Foster's thumb.(261)

Technician Simonello prepared a sketch of the death scene.(262) No videotape was taken at this death scene because it was not required at the time.(263) No aerial photographs were taken.

The Park Police determined that metal detectors would be needed to search for the missing bullet. Four Park Police officers returned to Fort Marcy Park on July 22, 1993 with two metal detectors and searched the death scene, but were unable to locate the spent round.(264)

3. Examine the body (after photographs are taken and the medical examiner has arrived) for wounds, livor and rigor mortis, trace evidence and blood or body fluids

Investigator Rolla observed blood running from Mr. Foster's mouth and nose, and pooling under Mr. Foster's head and back.(265) Investigator Rolla also observed a "transfer stain" of blood on Mr. Foster's right shoulder.(266) Investigator Rolla also noticed gunpowder on the webbing of Mr. Foster's hands and traces of gunpowder residue on Mr. Foster's face.(267) Investigator Rolla lifted one or both arms to check for lividity and rigor mortis before the medical examiner arrived and all photographs were taken.(268) Officer Ferstl and Sergeant Edwards had previously taken several Polaroid photographs before Investigator Rolla arrived on the scene. Investigator Rolla then took additional Polaroid photographs of the death scene.

After medical examiner Dr. Haut arrived at the death scene, Investigator Rolla rolled Mr. Foster onto his side to view the exit wound to the back of the head.(269) At this point, Investigator Rolla noticed additional signs of lividity on Mr. Foster's legs and blood soaking the back of Mr. Foster's shirt.(270)

4. Attend the autopsy or have a member of the investigations division attend so that the pathologist can be given a description of the death scene, evidence can be collected, fingerprints and photographs can be taken, and blood or hair samples may be ordered.

It is preferable for the investigator at the death scene to be present at the autopsy, "but sometimes the autopsy may be done the next day and [the investigator] might have worked midnight the night before."(271)

When Sergeant Robert Rule called Investigator Rolla at home to see if he could attend the autopsy, Sergeant Rule could tell that Investigator Rolla was "beat" and "might have an accident" or "not do as good a job as somebody who was fresh."(272) Since Sergeant Rule and Detective Morrissette had already been briefed on the case, Sergeant Rule decided they would attend the autopsy instead of Investigators Rolla, Braun or Apt, all of whom had worked 24 hours consecutively.(273) According to Investigator Rolla, "I couldn't drive, because I would have crashed, I was too tired."(274)

Detective Morrissette, Sergeant Rule and two Park Police technicians attended the autopsy.(275) They discussed the crime scene with the medical

examiner, Dr. Beyer, and recovered Mr. Foster's clothes for evidentiary purposes.(276)

No X-rays were taken at the autopsy, though the autopsy report mistakenly indicates that they were. The anti-depressant Mr. Foster had taken the night before his death was not detected by the toxicologist, though it was later detected by the FBI laboratory. Finally, while Captain Hume, Investigator Braun and Investigator Rolla testified that the autopsy was moved from July 22 to July 21, Dr. Beyer testified that he simply performed the autopsy when the body became available on July 21.

In cases involving suicide, the following additional provisions of the internal guidelines manual now apply. Each provision is followed by a summary of relevant aspects of the Park Police investigation of Mr. Foster's death:

1. Canvas the area for potential witnesses before the crime scene is released.

Shortly after arriving on the scene, Officer Julie Spetz searched around the parking lot for potential witnesses.(277) Investigator Christine Hodakievic and other Park Police officers interviewed the Fairfax County emergency personnel in the park and the driver of the blue Mercedes that had broken down on the George Washington Parkway and the driver who had come to tow the car.(278) Investigator Braun interviewed with the couple who was found in the woods by the paramedics.(279) The Park Police also searched for the Confidential Witness who originally found the body and the Park Service employee who made the anonymous 911 call. The Park Police were able to locate and question the anonymous caller.(280) The Park Police did not locate the Confidential Witness, who did not come forward until approximately eight months after Mr. Foster's death.(281)

2. Search for a suicide note or other comparable items, preserve fingerprints and obtain a known sample of the victim's handwriting for comparison purposes.

Investigator Braun searched Mr. Foster's car for a suicide note.(282) She also testified that she called the White House to request that Mr. Foster's office be sealed.(283) Captain Hume testified that he did not believe the office was sealed until the morning of July 21.(284) The Park Police also went to Mr. Foster's office in the White House to look for a suicide note, but were not initially allowed to search the office. Investigator Rolla and Lieutenant Kass,

however, reviewed Mr. Foster's diary and some of Mr. Foster's financial documents at the office of Foster family attorney James Hamilton.(285)

The Park Police also received a sample of Mr. Foster's handwriting, which was used in determining that the torn handwritten note received from the White House on July 27 was written by Mr. Foster. Mrs. Foster was shown the note and identified it as being written by her husband shortly before his death.(286) A piece of the note was missing when the Park Police received the note. According to White House personnel, the note was found in the bottom of a briefcase that had been searched earlier. Major Hines testified that a palm print and a fingerprint were recovered from the torn note, but the fingerprint was "unidentifiable" and the palm print was never identified.(287)

3. Interview family members and co-workers about any mood changes, personal or financial problems or medical conditions, and ask to examine the victim's personal effects and work area for clues that may corroborate suicidal intent.

Park Police investigators were unable to conduct a detailed interview of Mr. Foster's family during the death notification. The Park Police interviewed Mrs. Foster in the presence of her attorney nine days after Mr. Foster's death.(288) The Park Police interviewed Mr. Foster's colleagues in the presence of representatives of the White House Counsel's office.

The Park Police did not search Mr. Foster's home. As Investigator Rolla testified, "normally, on a suspected suicide, we would ask people to go through their personal belongings, because, you know, a person's bedroom is a pretty personal, private area."(289) Investigator Rolla testified that when suspicious circumstances are present, "you get a search warrant."(290)

The Park Police were not allowed initially to search Mr. Foster's office. The Park Police were in Mr. Foster's office on July 22 when Mr. Nussbaum and others searched through files and papers in Mr. Foster's office. The scope of the Committee's investigation precluded a full exploration of matters involved in the search of Mr. Foster's office. The Park Police did review Mr. Foster's diary and some of his financial documents.

CONCLUSION

The Committee finds no evidence of "improper conduct" in the Park Police investigation, which accurately concluded that Mr. Foster committed suicide in

Fort Marcy Park on July 20, 1993.¹²⁵ There is no evidence that any variances from normal investigative procedures undermined the Park Police investigation. Furthermore, there is no evidence of any attempt by the Park Police to alter the findings or conclusions of their investigation.

¹²⁵ The Office of the Independent Counsel also concluded that Mr. Foster committed suicide at the location where his body was discovered by the Confidential Witness. The FBI and the Justice Department joined the Park Police in announcing their conclusion that Mr. Foster's death was a suicide.

ENDNOTES

1. S. Res. 229, Section 1, 103d Cong., 2d Sess., pp. 1-2 (1994) (hereinafter, "S. Res. 229").
2. S. Res. 229, Section 5(b), pp. 6-8.
3. S. Res. 229, Section 6(3)(B), p. 9.
4. Report of the Independent Counsel In Re Vincent W. Foster, Jr. (hereinafter "Fiske Report"), pp. 6-7 (June 30, 1994).
5. Letter from Independent Counsel Robert Fiske to the Chairman and Ranking Member of the Committee, dated July 15, 1994.
6. OIC Document 000194.
7. OIC Documents 000250-000251, 000258.
8. Interior Document I47; OIC Documents 000124, 000288.
9. Interior Document I51; Hume, 7/22/94 Dep. pp. 314-316.
10. OIC Document 000312.
11. Interior Document I51; OIC Document 000342.
12. OIC Document 000271.
13. Ibid.
14. OIC Document 000273.
15. Interior Document I47; OIC Document 000284.
16. Interior Document I372; OIC Document 000758; Fiske Report, Exhibit 5.
17. Interior Document I41; see White House Travel Operations, (GAO/GGD-94-132, May 2, 1994), pp. 56-61; OIC Document 000441.
18. OIC Document 000279.
19. OIC Document 000320.
20. Monroe, 7/29/94 Hrg. pp. 111-112.

21. Fiske Report, pp. 9-10.
22. Fiske Report, p. 10.
23. Interior Document I33; OIC Document 000235.
24. OIC Document 000283, Interior Document I47.
25. Interior Document I48; OIC Document 000200.
26. OIC Document 000197.
27. OIC Document 000198.
28. Interior Document I41; OIC Document 000199.
29. OIC Documents 000198-000200.
30. OIC Document 000272.
31. OIC Documents 000272-000273.
32. OIC Document 000272.
33. Interior Document I47; OIC Document 000127.
34. OIC Document 000389.
35. OIC Documents 000199-000200.
36. OIC Document 000191.
37. Interior Document I48; Fiske Report, p. 25.
38. OIC Document 000235.
39. OIC Document 000249.
40. OIC Document 000156.
41. OIC Document 000231.
42. OIC Document 000236.
43. Interior Documents I52-I53; Hume, 7/22/94 Dep. pp. 297-301, 304-305.
44. OIC Documents 000372-000374.

45. Interior Document I50-I52.
46. Interior Document I30-I34.
47. OIC Document 000282.
48. OIC Documents 000148-000149.
49. OIC Document 000138.
50. OIC Document 000139.
51. OIC Documents 000107, 000140.
52. Id. and OIC Document 000167.
53. OIC Document 000140.
54. Id. at 108.
55. OIC Document 000108-000109, 000141; Confidential Witness, 7/28/94 Dep. pp. 37-40 (deposed by members of the House of Representatives).
56. OIC Documents 000095, 000105-110, 000111-112, 000137-144; Confidential Witness, 7/28/94 Dep. pp. 23-25.
57. OIC Documents 000085-000088, 000095.
58. Interior Documents I16-I20; OIC Documents 000085-000088 (transcription of the recorded telephone conversation).
59. OIC Documents 000204-000207.
60. See OIC Documents 000008-000010 (Wacha); OIC Documents 000011-000014 (Iacone); OIC Documents 000015-000018 (Pisani).
61. Fornshill, 7/12/94 Dep. pp. 15-17.
62. Fornshill, 7/12/94 Dep. pp. 91-93.
63. Fornshill, 7/12/94 Dep. pp. 90-91; OIC Document 000205.
64. OIC Documents 000204-000207.
65. Fornshill, 7/12/94 Dep. pp. 17-21.

66. OIC Documents 000173-000174A.
67. OIC Documents 000041-000044.
68. Fornshill, 7/12/94 Dep. p. 23.
69. Gonzalez, 7/20/94 Dep. pp. 19, 23.
70. Gonzalez, 7/20/94 Dep. pp. 34-36, 41.
71. OIC Documents 000004-000007.
72. Gonzalez, 7/20/94 Dep. pp. 21-23.
73. OIC Document 000072.
74. Hines, 7/25/94 Dep. p. 13.
75. OIC Document 000207.
76. Treasury Document T6237.
77. OIC Document 000222; Rolla, 7/21/94 Dep. pp. 9-10.
78. OIC Document 000222.
79. OIC Document 000222; Rolla, 7/21/94 Dep. pp. 11-12.
80. OIC Document 000222.
81. Treasury Documents T6237-T6238; OIC Documents 000222-000223; Rolla, 7/21/94 Dep. pp. 16-25, 27-28.
82. Rolla, 7/21/94 Dep. pp. 13-14, 27, 89-90.
83. Rolla, 7/21/94 Dep. p. 22; OIC Document 000209 (Investigator Apt); Braun, 7/23/94 Dep. p. 21.
84. Simonello, 7/14/94 Dep. pp. 15-16.
85. Simonello, 7/14/94 Dep. p. 16.
86. Simonello, 7/14/94 Dep. p. 19.
87. Simonello, 7/14/94 Dep. pp. 20-21.

88. Rolla, 7/21/94 Dep. pp. 21-22.
89. OIC Document 000223; Rolla, 7/21/94 Dep. pp. 20-21.
90. Rolla, 7/21/94 Dep. pp. 12-13, 15.
91. Rolla, 7/21/94 Dep. p. 19; OIC Document 000223; see also OIC Document 000176 (Lieutenant Gavin); OIC Document 000210 (Investigator Apt); Fornhill, 7/12/94 Dep. p. 103; Braun, 7/23/94 Dep. p. 21.
92. Rolla, 7/21/94 Dep. p. 24.
93. Rolla, 7/21/94 Dep. p. 25.
94. OIC Documents 000296-000299.
95. Beyer, 7/13/94 Dep. pp. 29-30.
96. See Haut, "Report of Investigation by Medical Examiner," Form No. 1, Commonwealth of Virginia, Office of the Chief Medical Examiner, dated July 20, 1993.
97. Id.
98. Rolla, 7/21/94 Dep. p. 26; Treasury Document T6238.
99. Rolla, 7/21/94 Dep. p. 26; OIC Documents 000224-000225.
100. Treasury Documents T6239-T6240.
101. OIC Document 000220.
102. OIC Document 000225; Rolla, 7/21/94 Dep. p. 27; Treasury Document T6238; Braun, 7/23/94 Dep. pp. 22-23.
103. Braun, 7/23/94 Dep. pp. 27-31, 83; Hume, 7/22/94 Dep. pp. 103-105.
104. Simonello, 7/14/94 Dep. p. 35.
105. OIC Document 000268.
106. Braun, 7/23/94 Dep. p. 20; Simonello, 7/14/94 Dep. pp. 35-36.
107. Rolla, 7/21/94 Dep. p. 28.
108. OIC Documents 000181-000184.

109. OIC Documents 000019-000023.
110. OIC Documents 000294-000295.
111. Braun, 7/23/94 Dep. p. 31; Rolla, 7/21/94 Dep. pp. 26-27; OIC Documents 000223, 000225.
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113. OIC Documents 000177-000178.
114. Braun, 7/23/94 Dep. pp. 31-32; Rolla, 7/21/94 Dep. p. 34.
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118. Rolla, 7/21/94 Dep. pp. 35-36.
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121. Rolla, 7/29/94 Hrg. p. 212.
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123. Braun, 7/23/94 Dep. pp. 37-38, 89, 96; Braun, 7/29/94 Hrg. pp. 208; Rolla, 7/21/94 Dep. pp. 134, 136; Hines, 7/25/94 Dep. p. 79.
124. Braun, 7/23/94 Dep. p. 37; Rolla, 7/21/94 Dep. pp. 37-39.
125. Braun, 7/23/94 Dep. pp. 41-43; Rolla, 7/21/94 Dep. pp. 140-141; OIC Document 000227.
126. Braun, 7/23/94 Dep. p. 44.
127. Braun, 7/23/94 Dep. pp. 44-45.
128. Braun, 7/23/94 Dep. pp. 115-16.
129. Hume, 7/22/94 Dep. pp. 6-8, 128-131.

130. Rule, 7/26/94 Dep. p. 44.
131. Braun, 7/23/94 Dep. p. 52.
132. Hume, 7/22/94 Dep. pp. 8, 12-14, 132-136; Rule, 7/26/94 Dep. pp. 46-47.
133. Rule, 7/26/94 Dep. pp. 41-43.
134. Hume, 7/22/94 Dep. p. 165.
135. Hume, 7/22/94 Dep. pp. 149-152, 162-163.
136. Hines, 7/25/94 Dep. pp. 15, 76-79, 81-83.
137. Hines, 7/25/94 Dep. p. 77.
138. Hines, 7/25/94 Dep. pp. 15-16, 75-79.
139. Hines, 7/25/94 Dep. p. 97.
140. Hines, 7/25/94 Dep. pp. 27, 83-85, 89-91.
141. Hines, 7/25/94 Dep. pp. 15-16.
142. Hume, 7/22/94 Dep. pp. 166-168.
143. Hume, 7/22/94 Dep. pp. 176-180.
144. Hume, 7/22/94 Dep. pp. 176, 178.
145. Hume, 7/22/94 Dep. pp. 176-181.
146. Hume, 7/22/94 Dep. pp. 50-58.
147. Hume, 7/22/94 Dep. pp. 181-182.
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149. Hume, 7/22/94 Dep. pp. 83, 210.
150. Hume, 7/22/94 Dep. pp. 208, 236, 244.
151. Hume, 7/22/94 Dep. pp. 246-249; Treasury Document T6232.
152. Interior Documents I30-I34, I45-I46; Hume, 7/22/94 Dep. pp. 37-38, 248.
153. Hume, 7/22/94 Dep. pp. 37-38, 220-224.

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167. Beyer, 7/13/94 Dep. p. 12.
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181. Fiske Report, pp. 38-39.
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192. Rolla, 7/29/94 Hrg. p. 214.
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274. Rolla, 7/21/94 Dep. p. 62.
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282. Braun, 7/23/94 Dep. p. 19.
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Barth Stansbury

Patty Murray

**ADDITIONAL VIEWS
REGARDING THE INVESTIGATION OF VINCENT FOSTER'S DEATH**

We congratulate the staff of the Senate Banking Committee for a serious, balanced, and impartial analysis of the Whitewater hearings. The report is extensive, and the recommendations are sound; this document will help future administrations avoid the conflicts and poor decisions that caused so much trouble.

The Senate resolution governing these hearings, S.Res. 229, authorized the Committee to "conduct hearings into whether improper conduct occurred regarding. . .the Park Police investigation into the death of White House Deputy Counsel Vincent Foster." The Committee interviewed many witnesses and conducted hearings with sworn testimony from officials involved in the Foster investigation. The Committee found no improper conduct in this investigation. The Committee agreed with the Independent Counsel that the Park Police, the FBI, and the medical examiners did their job, and that there is no reason to question their conclusion that Vince Foster did indeed commit suicide.

~~There~~ are other public documents which provide information on Foster's history in the White House and on his state of mind leading up to his death. We do not believe that consideration of these matters is required under S.Res. 229, and we would have preferred that the Committee report not address them.

Vincent Foster's suicide was sad and tragic, and it's time to allow his family to remember his accomplishments, rather than dwell on the circumstances of his death.