

Fiske Report on Foster

7

**Report of the
Independent Counsel
In Re
Vincent W. Foster, Jr.**

*Washington, D.C.
June 30, 1994*

Robert B. Fiske, Jr.
Independent Counsel

Roderick C. Lankler
Deputy Independent Counsel

Mark J. Stein
Carl J. Stich, Jr.
Associate Independent Counsel

TABLE OF CONTENTS

INTRODUCTION	1
THE INVESTIGATION	2
SUMMARY OF CONCLUSIONS	6
FACTS	7
A. Background	7
B. Foster's State Of Mind During The Weeks Prior To Suicide	9
1. Travel Office matter	10
2. The <u>Wall Street Journal</u> editorials	14
C. The Role Of Whitewater	18
D. Foster's Activities From July 12 - July 18, 1993 .	20
E. Foster's Activities On July 19	23
F. Foster's Activities On July 20	25
G. Discovery Of Foster's Body	28
1. Fort Marcy Park	28
2. Observations by Confidential Witness	29
3. Observations of the U.S. Park Police and Fairfax County personnel	31
H. The Autopsy	37
I. The Gun	38
J. The Park Police Investigation	39
1. Investigative jurisdiction	39
2. Summary of Park Police investigation	40
TESTS CONDUCTED BY FBI LABORATORY	40
A. Firearm Analysis	41
B. Chemical Analysis	42
C. Blood Analysis	43

D.	Analysis Of Bloodstaining Patterns	44
E.	DNA Analysis	45
F.	Fingerprint Analysis	45
G.	Handwriting Analysis	46
H.	Other Analyses	46
I.	Search For Additional Evidence In Fort Marcy Park	47
	ANALYSIS	48
A.	Analysis And Conclusions Of Forensic Pathology Panel	48
	1. Basis for conclusion that death was a suicide	49
	2. Basis for conclusion that death occurred in Fort Marcy Park	51
B.	Analysis Of Issues Raised On Circumstances Of Foster's Death	52
	CONCLUSION	58

EXHIBITS

FBI Laboratory Reports	1
Pathologists' Curriculum Vitae	2
Pathologist Report	3
Psychiatrist's Curriculum Vitae	4
Note Transcript	5
<u>Wall Street Journal</u> Editorials	6
Commencement Address	7
Autopsy Report	8
Fort Marcy Artifact Inventory	9

REPORT ON THE DEATH OF VINCENT W. FOSTER, JR.

INTRODUCTION

In the early evening of July 20, 1993, the body of Deputy White House Counsel Vincent W. Foster, Jr. was found in Fort Marcy Park in Fairfax County, Virginia. The United States Park Police ("Park Police") investigated the death and concluded that it was a suicide.

Since that time, questions have been raised concerning the circumstances of Foster's death, specifically:

1) Were the Park Police correct that Foster committed suicide, or was he murdered?;

2) If the death was a suicide, did it occur in Fort Marcy Park or had the body been moved?; and

3) If Foster committed suicide, was it motivated in any way by concerns Foster may have had about legal issues related to the Clintons' involvement with the Whitewater Development Company, Inc. ("Whitewater"), Madison Guaranty Savings & Loan ("Madison Guaranty"), or Capital Management Services, Inc. ("CMS")?

As a result of speculation about a possible link between Foster's death and issues related to Whitewater, Madison Guaranty, and CMS, the Office of the Independent Counsel ("this Office") conducted a thorough investigation into each of the questions listed above.

THE INVESTIGATION

Roderick C. Lankler directed the Independent Counsel's investigation into Foster's death. For eight of his thirteen years in the Manhattan District Attorney's Office, Mr. Lankler served in the Homicide Bureau, investigating and prosecuting murder cases. He was assisted in this investigation by Associate Counsels Mark Stein and Carl Stich. Russell Hardin, Jr., also an Associate Counsel, reviewed and analyzed the evidence compiled during this investigation. Mr. Hardin is a former Assistant District Attorney in Houston, Texas who has also investigated and tried numerous homicide cases.

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

In the course of the investigation, this Office interviewed approximately 125 people. Those interviewed included numerous close friends and relatives of Foster, who provided insight into Foster's activities and state of mind during the weeks

prior to his death.* This Office also interviewed numerous people who worked with and for Foster in the White House, including President William Jefferson Clinton; First Lady Hillary Rodham Clinton; Chief of Staff Thomas McLarty; Assistants to the President Bruce Lindsey, John Podesta, Ricki Seidman and George Stephanopoulos; Deputy Assistants to the President Charles ("Bill") Burton, and Marsha Scott; former Deputy Chief of Staff Roy Neel; Mrs. Clinton's Chief of Staff Margaret Williams; former General Counsel Bernard Nussbaum; Associate Counsels William Kennedy, Stephen Neuwirth, Beth Nolan and Clifford Sloan; Foster's Executive Assistant Deborah Gorham, and other staff who worked in the White House Counsel's offices. In addition, we contacted and interviewed everyone whom our investigation revealed may have spoken or attempted to speak with Foster in the days prior to his death, including Foster's close friend, former Associate Attorney General Webster Hubbell.

Everyone known to have been in Fort Marcy Park on the afternoon or evening of July 20, 1993, also was questioned. This includes: a confidential witness who first found the body; the members of the Fairfax County Fire and Rescue Department who responded to the Park; the Park Police investigators, officers and technicians who conducted the investigation in the Park; the Fairfax County Medical Examiner; and others who were in or near the

*
Foster
extrem
diffic

Note

* That Mr. Foster's wife, Elizabeth "Lisa" Foster, and other close family members were cooperative with this Office under obviously

Park on that day for reasons unconnected with Foster's death. The Medical Examiner who conducted the autopsy was also interviewed.

In addition to conducting interviews, this Office examined documentary and photographic evidence, including documents obtained by the Park Police at the time of Foster's death from his wallet and his car; documents removed from Foster's office at the White House and turned over to either the Clintons' private attorney or the Foster family attorney; photographs of Foster's body taken by the Park Police in Fort Marcy Park; the Northern Virginia District Medical Examiner's autopsy report; and photographs taken during the autopsy. This Office also reviewed White House documents that were worked on by Foster, found in his office, or which otherwise related to Foster.

Experienced FBI Laboratory Technicians in Washington D.C. ("the FBI Lab") performed extensive analyses of the physical evidence identified during the investigation. Among the tests conducted by the FBI Lab were: an examination of the gun that the Park Police found in Foster's hand; a chemical and physical comparison of gunpowder and lead residue on Foster's clothing with that found in the gun; an analysis of photographs taken by the Park Police for patterns of bloodstaining, gunpowder residue and the presence or absence of physical marks on Foster's clothing and body; a toxicological analysis of a blood sample obtained during the autopsy and a comparison of that blood sample with blood on Foster's clothing; a DNA comparison of Foster's blood with DNA found near the muzzle of the gun; an analysis of mineral deposits

on the clothing; a fingerprint analysis; and a handwriting analysis of a torn-up note discovered in Foster's briefcase.*

A four-member panel of experienced and respected forensic pathologists ("Pathologist Panel") reviewed the results of the investigation. The members of this panel are:

Dr. Charles S. Hirsch - Chief Medical Examiner for the City of New York and Chairman of the Department of Forensic Medicine at New York University Medical School;

Dr. James L. Luke - Forensic Pathology Consultant, FBI Investigative Support Unit, FBI Academy; Project Director, Department of Environmental and Toxicologic Pathology, Armed Forces Institute of Pathology, Washington D.C.; Clinical Professor of Pathology at Georgetown and George Washington Universities;**

Dr. Donald T. Reay - Chief Medical Examiner for King County, Seattle, Washington since 1975; Professor of Pathology at the University of Washington;

Dr. Charles J. Stahl - Distinguished Scientist and Armed Forces Medical Examiner, Armed Forces Institute of Pathology, Washington, D.C.

Following their review of the evidence, the Pathologist Panel issued a report summarizing their analysis and conclusions ("Pathologist Report").***

* Attached as Exhibit 1 are reports issued by the FBI Lab. These include two general reports dated May 9, 1994 ("Lab Report") and June 13, 1994 ("Supplemental Report") (the Supplemental Lab Report was issued as a result of this Office to the Lab following receipt of the ; two reports on the FBI Lab's fingerprint ana 94 and June 9, 1994; and a report on the FBI La 17, 1994. sis dated June

** Dr. Luke assisted this O investigation.

*** The curriculum vitae for each pathologist is attached as Exhibit 2. The Pathologist Report is attached as Exhibit 3.

This Office was also assisted by Dr. Joel E. Kleinman, M.D., Ph.D., a respected psychiatrist. Dr. Kleinman is the Deputy Chief of the Clinical Brain Disorders Branch and Chief of the Neuropathology Section at the Intramural Research Program, National Institute of Mental Health, Saint Elizabeth's Hospital, Washington D.C. He is also a Clinical Professor in the Department of Psychiatry and Behavioral Sciences and Department of Neurology, George Washington University School of Medicine.*

SUMMARY OF CONCLUSIONS

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, CMS 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, CMS, or other possible legal matters of the Clintons were mentioned. Moreover,

4. * The curriculum vitae for Dr. Klei

Exhibit

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.

FACTS

A. Background

Vincent W. Foster, Jr. was born on January 15, 1945, in Hope, Arkansas, where he attended the same kindergarten class as President Clinton and White House Chief of Staff Thomas McLarty. After graduating from Hope High School in 1963, Foster attended Davidson College in Davidson, North Carolina, where he earned a bachelor's degree in 1967. In 1968, Foster married Elizabeth ("Lisa") Braden, with whom he had three children: Vincent, age 22; Laura, age 21; and John, age 18. In 1971, he received his law degree from the University of Arkansas School of Law in Fayetteville, Arkansas, where he ranked first in his class. He subsequently received the highest score on the Arkansas Bar exam. In 1971, Foster joined the Rose Law Firm and, in 1973, he was made a partner. Among his partners at the firm were Hillary Rodham Clinton, Webster Hubbell and William Kennedy.

Foster remained at the firm until January 1993, when he moved to Washington, D.C., to assume the position of Deputy White House Counsel. At about the same time, Kennedy joined the Counsel's Office and Hubbell became Associate Attorney General. Foster's office at the White House was located on the second floor of the West Wing where he shared a suite with White House General

Counsel Bernard Nussbaum. A few weeks after arriving he hired Deborah Gorham as his Executive Assistant.

When Foster first arrived in Washington he lived with his sister, Sheila, and her husband, Beryl Anthony. Foster's wife and children remained in Arkansas so that his son John could complete his school year. In March 1993, Foster rented a house and in early June he was joined in Washington by his wife and children.

Friends and associates who knew Foster well, uniformly described him as a man of honesty and integrity, respected for his intelligence and judgment. His professional reputation was of paramount importance to him, particularly among colleagues in Arkansas. Foster was characterized as quiet, reserved, and one who rarely showed anger or emotion. Although difficult to get close to, he could be relied upon as a trusted confidante. Colleagues within the White House described him as a calming influence during stressful periods.

Foster's family and friends said that Foster did not experience any extended period of depression prior to the spring of 1993. Although he experienced some brief episodes of depression and anxiety, these appeared to be resolved without treatment. From time to time Foster experienced what his wife described as anxiety or panic attacks, marked by heavy sweating and a strained voice. In late 1992, he told his physician in Little Rock, Dr. Larry Watkins, that he was feeling depressed and anxious. At least two of Foster's close relatives have suffered from periods of depression.

B. Foster's State Of Mind During The Weeks Prior To Suicide

Foster's position at the White House generally demanded that he work from between 7:30-8:30 in the morning until 9:30 or later at night, either six or seven days per week. He took no vacation or weekends off until the weekend immediately prior to his death. The demands of the Counsel's office were severe, and Bernard Nussbaum heavily relied upon Foster to assist him in accomplishing a wide range of tasks. Friends and associates recall that in the last two to three months prior to his death, he showed signs of stress and had virtually no time to relax in the ways that he had in Arkansas.

In the last six to eight weeks of his life those close to Foster observed that he appeared exhausted much of the time, his face drawn and grey. He confided to some that he was having difficulty sleeping, and on certain mornings commented that he had not slept at all.* Although no one noticed a loss of appetite, it was obvious to many that he had lost weight. In the last few weeks of his life Foster seemed uncharacteristically fretful, and more quiet and subdued than usual. Family members noted that he had lost his sense of humor and appeared distracted. Lisa Foster described him as constantly worried and under stress.

Bernard Nussbaum noted a marked decrease in Foster's productivity in the weeks prior to his death. During his first few months in Washington, Foster actively involved himself in most of

* Foster had a prescription for sleeping pills but did not want to take them for fear of becomi

the important matters within the Counsel's office. Nussbaum came to rely on him to accomplish matters quickly and with sound judgment. During the particularly busy period of late June and July, however, Foster was virtually uninvolved. For example, Nussbaum noted that Foster uncharacteristically provided little assistance in the selection of a new FBI Director, a task that Nussbaum considered one of the most important he faced during his time in Washington. Nussbaum repeatedly suggested to Foster during this period that he should take some time off, but Foster was reluctant. Deborah Gorham, his Executive Assistant, confirmed that Foster's productivity dropped significantly in the last few weeks of his life. Lisa Foster said that Foster received no joy from his work during that time.

Some family members have stated that Foster appeared depressed in the weeks prior to his death. Although it is impossible to determine precisely what triggered this depression, certain matters were cited repeatedly by those interviewed during this investigation.

1. The Travel Office matter

Those close to Foster have stated that the single greatest source of his distress was the criticism he and others within the Counsel's Office received following the firing of seven employees from the White House Travel Office.

The Travel Office controversy began in mid-May 1993, when allegations surfaced that the White House Travel Office was being mismanaged and that employees within that Office may have either

embezzled funds or received kickbacks. Foster gave Associate Counsel William Kennedy responsibility for handling the matter. In consultation with Foster and others within the White House, Kennedy took two steps: he hired an outside accounting firm to audit the books of the Travel Office, and he contacted the FBI to discuss the possibility of initiating a criminal investigation. On May 19, 1993, following a preliminary report by the accounting firm, the White House decided to fire seven employees in the Travel Office.

In the days that followed, the White House was harshly criticized for its handling of the matter. Some reports charged that the White House pressured the FBI to open an investigation in order to justify the firings. In late May 1993, the FBI conducted an internal review of the meetings between FBI agents and White House personnel, and on June 1, submitted a report on the matter to the Attorney General. Included in the report were statements attributed to William Kennedy, some of which Kennedy denied making. The White House announced in late May that it would conduct an internal review of the Travel Office matter. In connection with that review, the White House requested and received a copy of the FBI's report to the Attorney General. On July 2, 1993, the White House released an internal report that reprimanded Kennedy and others for their handling of the matter. There was some discussion within the White House about reprimanding Foster, but this did not occur.

By many accounts, Foster was deeply disturbed by the reprimand of Kennedy and what he viewed as a distortion of the

facts by the press. Lisa Foster believed that the Travel Office matter was the greatest cause of Foster's stress and anxiety in the weeks prior to his death. She recalled that Foster had a bout of "anxiety" at around the time that the White House reprimand was issued. Foster was angry and distressed that, in his view, Kennedy had been unjustly criticized. He told co-workers that he believed that the FBI's report to the Attorney General had mischaracterized what had occurred in meetings with Kennedy. He told family members that the FBI had lied about the meetings, and that the Counsel's Office had been set up by the FBI in this matter.*

Foster was concerned that the White House report would lead to unwarranted investigations of well-intentioned actions. He felt responsible for Kennedy's situation because he had assigned Kennedy to the matter. He was heard to raise his voice uncharacteristically in insisting that Nussbaum allow Foster to take the blame instead of Kennedy.

It is clear from Foster's conversations with others in the White House that the reaction to the Travel Office firings had a profound effect upon him. He told Webster Hubbell, a close friend who at that time was serving as the Associate Attorney General, that no laws or rules had been broken but that in Washington you

* At the time of the appointment of the Independent Counsel on January 20, 1994, the Office of Professional Responsibility ("OPR") in the Department of Justice had already begun an inquiry into the conduct of the FBI in co matter. As a result, this Office would not investigate whether th statements in its report to the Att Foster's belief that the FBI had suicide.

Travel Office
this Office
made false
nly whether
ole in his

Note 9 7

are assumed to have done something wrong even if you have not. He further told Hubbell that he thought the matter would never end. Foster told Kennedy in connection with the Travel Office matter that there were very few people one could trust in Washington.

Foster's sister, Sheila Anthony, observed that immediately after the White House issued its Travel Office report, Foster's distress became severe. He told his sister, as well as his wife, Lisa, and friend, Kennedy, that he was considering resigning from his position. Both Sheila Anthony and Lisa Foster believed that the personal humiliation he would have felt had he returned to Arkansas under those circumstances prevented him from resigning.

According to Nussbaum, Foster became increasingly obsessed with the Travel Office matter in the weeks before his death. Foster repeatedly urged Nussbaum to hire outside counsel to represent the General Counsel's Office in connection with the issues related to the Travel Office firings.* Nussbaum felt that Foster was overreacting and tried unsuccessfully to allay his concerns.

The extent to which Foster was disturbed by Travel Office issues is reflected in a torn note found in his briefcase by Stephen Neuwirth on July 26, 1993, six days after Foster's death. Lisa Foster has identified the handwriting in the note as Foster's,

* In fact, in early July 1993, Foster consulted James Lyons, an attorney located in Denver, Colorado, about the likelihood of Congressional hearings into the Travel Office firings and Foster's concern that his role in the Travel Office matter would affect his objectivity in advising the Clinton administration. Foster, after reviewing the White House report, concluded that there was a conflict of interest.

Note 8

and a handwriting analysis performed by the FBI Lab confirms that identification. Lisa Foster believes that the note was written by Foster on or about July 11, 1993. On that day, she had encouraged him to write down everything that was disturbing him. She also encouraged him to go on the offensive and not take responsibility for every mistake. Later that day, Foster told his wife that he had written the opening argument for his defense - an apparent reference to his expected testimony should Congress hold hearings on the Travel Office matter.

There are ten separate entries in the torn up note found in Foster's briefcase. Five of them appear to relate to the Travel Office matter:

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.

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

2. The Wall Street Journal editorials

According to people close to Foster, he was also distressed by editorials written about him in the Wall Street Journal ("the Journal"). Of particular concern was a June 17,

* The full text of the note is:

1993, editorial entitled "Who Is Vincent Foster?" The editorial criticized the Clinton White House for "carelessness about following the law," using as an example the Journal's efforts to obtain a photograph of Foster. According to the editorial, someone within the White House Counsel's Office responded that, "Mr. Foster sees no reason why he should supply the Journal with a photo." The Journal thereafter filed a request for the photograph under the Freedom of Information Act but, according to the editorial, did not receive a response within the ten-day period set forth in the Act. The editorial states:

No doubt Mr. Foster and company consider us mischievous (at best). . . . Does the law mean one thing for critics and another for friends? Will we in the end have to go to court to get a reply, or will even that work? Does it take a \$50,000-a day fine to get this mule's attention? . . . Who ensures that this administration follows the law, or explains why not? A good question. While Constitutional law may not have been the big part of the Rose firm's practice, it seems to us that a good man for the job would be deputy counsel Foster.

One week later, on June 24, 1993, the Journal ran another editorial entitled "Vincent Foster's Victory", which focused on a decision by the United States Court of Appeals for the District of Columbia that Hillary Rodham Clinton was the functional equivalent of a federal employee and, therefore, the Health Care Task Force she headed need not meet in public pursuant to the Federal Advisory Committee Act ("FACA"). The editorial states:

As for Iran-Contra, we suspect that Vincent Foster and Ollie North might hit it off. After all, we're supposed to believe that the health task force "officially" disbanded on

May 30, and so FACA's requirements are moot. That is, we're supposed to believe that Mrs. Clinton and her associates will never ever hold off-the-books meetings with "non-government" advisers to get the reform plan finished.

Foster was unaccustomed to such criticism. He was distraught over these editorials, and told others that they were mean-spirited and factually baseless. He believed the Journal would continue attacking him and others within the Administration until someone from Arkansas was forced out of the White House. He noted to his sister Sheila and to Kennedy that his friends and colleagues in Arkansas read the Journal, and voiced his concern that the editorials would damage his reputation. Foster told Sheila's husband, Beryl Anthony, that he had spent a lifetime building his reputation and that it was now being tarnished. Sheila Anthony tried without success to make Foster understand that this was "par for the course" in Washington politics. Colleagues at the White House made similar comments and attempted to joke with Foster about the editorials, but Foster found no humor in them.

On July 19, 1993, the Journal ran another editorial that mentioned Foster. That editorial was critical of the speed at which the Administration was moving to replace FBI Director William Sessions, and compared it to the Administration's handling of the Travel Office matter. The editorial noted that Foster was involved in the Travel Office matter, and stated that, "The mores on display from the Rose alumni are far from confidence-building."*

* The June 17, June 24 and July 19 Journal editorials are attached as Exhibit 6.

Foster's views about the importance of reputation are reflected in his commencement address to The University of Arkansas Law School at Fayetteville, Arkansas, on May 8, 1993. Many of those interviewed referred to the speech as a source of insight into Foster's attitudes. On the topic of reputation Foster told his audience:

The reputation you develop for intellectual and ethical integrity will be your greatest asset or your worst enemy. . . . Treat every pleading, every brief, every contract, every letter, every daily task as if your career will be judged on it. . . . I cannot make this point to you too strongly. There is no victory, no advantage, no fee, no favor which is worth even a blemish on your reputation for intellect and integrity. Nothing travels faster than an accusation that another lawyer's word is no good. . . . Dents to the reputation in the legal profession are irreparable. . . .*

Sheila Anthony recalls that during his address Foster's voice was unnaturally strained and tense, reminiscent of their father's voice when he was distraught during the period before his death in 1991.

Foster's distress about adverse publicity is plainly reflected in the torn note found in his briefcase. In reference to the Journal editorials, he wrote that "The WSJ editors lie without consequence." He concluded the note by stating, "I was not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport."**

* The full text of the address is attached as Exhibit 7.

** Foster also exhibited di the Administration regarding mat example, he was actively involve United States Attorney General

m received by involved. For a nominee for at Zoe Baird

Note 11, 12

C. The Role of Whitewater

During his time as White House Deputy Counsel, Foster continued to handle some personal legal matters for the President and Mrs. Clinton, as he had while a member of the Rose Law Firm. Among those matters was Foster's role in arranging for the Clintons' accounting firm to prepare Whitewater tax returns for the years 1990-92. We have reviewed all of the Whitewater-related documents from Mr. Foster's files that were delivered to the Clinton's personal attorney after his death. However, Rule 6(e) of the Federal Rules of Criminal Procedure precludes us from disclosing the content of these documents since they were obtained by grand jury subpoena.

Those who worked in the White House during the first half of 1993 all stated that Whitewater was not an issue of any significance within the White House during that period. The issue had received virtually no attention in the press since the spring of 1992, during the Presidential campaign. As one person put it, Whitewater issues were "not on the screen" at that time. It was not until October 1993, three months after Foster's death, when it was disclosed that the Resolution Trust Corporation had issued

withdrew from consideration, Foster had what was described as an anxiety attack. He went to bed at profusely, and became sick. He told that everyone was criticizing him. He blamed himself for the failed nominati had let down the President.

sweating
he felt
Foster
that he

Note 12

criminal referrals involving Madison Guaranty and Whitewater, that the matter again received prominent public attention.

Each of Foster's co-workers, friends and family whom we questioned was explicitly asked whether Foster had ever mentioned Whitewater or Madison Guaranty related matters as a cause of concern or distress.* According to each of these people, Foster had never expressed any concern about these matters.

Questions have also been raised regarding whether a warrant authorizing the FBI to search the premises of CMS played a role in Foster's suicide. The search warrant was issued by the Federal District Court in Little Rock, Arkansas, on the afternoon of July 20, 1993, the date of Foster's death. However, the search warrant was not made public until it was executed, on July 21, after Foster's death. We have investigated to determine whether Foster learned of the search warrant prior to his death and have found no evidence that he did. In fact, only a limited number of individuals in the Little Rock U.S. Attorney's Office, the Little Rock FBI Office and the Court had any knowledge of the warrant prior to its execution.

Obviously, 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

* These questions were asked u
false statement would be prosecutable u
Code, Section 1001.

where a
States

Note 13
[Signature]

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.*

D. Foster's Activities From July 12 - July 18, 1993

Early in the week of July 12, Foster expressed concern to Beryl Anthony about the possibility of Congressional hearings on the Travel Office matter and asked Anthony to recommend an attorney. Mr. Anthony delivered a list of attorneys to him later that week. At about the same time, Foster spoke to James Lyons by telephone and told Lyons that the Travel Office matter was escalating and asked him to come to Washington as soon as possible. They arranged to meet the following week, on July 21, when Lyons was planning to be in Washington on other business. On July 13, Foster again expressed his concern about upcoming Congressional hearings regarding the Travel Office and told his wife that he was thinking about resigning.

Deborah Gorham, Foster's Executive Assistant, stated that Foster did little work during the week of July 12, and instead concentrated on "cleaning-up" matters that he had not been able to get to for some time, such as dictating thank-you and congratulatory notes. Gorham rarely had personal conversations with Foster, but on Thursday, July 15, he told her that he was

* In addition to completing tax returns, Foster also participated in creating a blind trust to complete their personal 1992 income tax returns. These matters were a contributing cause of Foster's resignation.

Foster
resigns,
stating
that

Note pg 14

frustrated because well-intentioned people were trying to build something and others just kept knocking it down. Gorham asked Foster if he ever felt that he was in "spiritual default." He said that he did, and Gorham recommended a church located near the White House.

Lisa Foster recalls that during that same week, Foster told her that his heart had been "pounding". Records reflect that on Friday, July 16, he went to the White House medical unit to have his blood pressure taken, which was recorded as 132/84. On the same day, Foster called his sister, Sheila, and told her that he was battling depression for the first time in his life and did not know what to do about it. Sheila Anthony described Foster's voice as tight and strained. She asked him to let her contact a psychiatrist and set up an appointment for him. Foster told her that he was hesitant to see a psychiatrist because it could jeopardize his White House security clearance. Sheila Anthony said that she would discuss this concern with the psychiatrist before making any appointment.

Sheila Anthony contacted a psychiatrist in the Washington area who was recommended by a friend. That doctor agreed to see Foster one time on an "off-the-record" basis. Sheila Anthony then called Foster and provided him with the names and telephone numbers of three psychiatrists, including the one she had spoken to, and encouraged him to call right away. He said that he wanted to think about it over the weekend.

Telephone records reflect that in the early afternoon of July 16, Foster made two calls to one of the psychiatrists recommended by his sister. At 12:41 p.m. and again at 1:24 p.m., Foster called the psychiatrist from the telephone in his office, and charged the calls to his home telephone. Each call lasted one minute or less.* The psychiatrist called by Foster often uses an answering machine during the lunch hour when no one is in the office. It is possible that Foster reached the answering machine and did not leave a message. Neither the psychiatrist that Foster attempted to reach nor the other psychiatrists recommended by Sheila Anthony ever spoke with Foster. The list of psychiatrists was found on a piece of paper in Foster's wallet following his death.

During the same telephone call in which Foster told Sheila Anthony that he was depressed, he asked her to recommend a place he and his wife could go to relax for the weekend. She called Lisa Foster with two or three possibilities, and Lisa Foster made arrangements for them to go to an inn on Maryland's Eastern Shore. Before they left, Foster told his wife that he was depressed, and she could tell that he was still under great stress while they were driving through Maryland.

Coincidentally, Webster Hubbell and his wife were also on the Eastern Shore of Maryland for the weekend staying with friends, Michael and Harolyn Cardoza, who also knew the Fosters. On

* Calls of less than one minute are billed as one minute in length. a telephone

Saturday, July 17, the Cardozas invited the Fosters to their home, and the group spent Saturday evening and Sunday together. Hubbell described it as a relaxing weekend during which Foster jogged, went boating, hit some golf balls, read the newspaper, and ate fresh crab for the first time. Foster and Hubbell spoke about the need to change their lifestyles and spend more time away from work. Foster mentioned that he missed spending time during June and July at his house in Michigan, as he had while at the Rose Law Firm.

Somewhat in contrast to Hubbell's perception of the weekend, Lisa Foster stated that the weekend did not go particularly well for Foster. When Foster returned on Sunday evening, July 18, he spoke to Lyons by telephone. They discussed the Travel Office matter for approximately thirty minutes and confirmed that they would meet in Washington to further discuss it on July 21.

E. Foster's Activities On July 19

Gorham observed that Foster spent much of the day on Monday, July 19, going through paperwork on his desk and in his desk drawers, dictating letters and taking care of unfinished business. She described Foster's day as one of "straightening and cleaning." Gorham recalled that he spent much of the day with his door closed.

Gorham recalls that at one point Foster came out of his office and placed three envelopes in the out-box on her desk. The envelopes had already been addressed, stamped and sealed by Foster, which was unusual. She looked at the envelopes to make sure they

had postage and recalls that one was addressed to Foster's mother in Hope, Arkansas, and another was addressed to an insurance company. She cannot recall how the third envelope was addressed. Sheila Anthony was with their mother when she received correspondence from Foster a day or two after his death. The letter contained oil leases which had been left to Foster's mother after his father died in 1991. Foster wrote a very brief typewritten cover letter providing instructions to his mother regarding the leases. Lisa Foster believes that the correspondence sent to the insurance company and the third envelope mailed by Foster were bill payments that she had asked Foster to make.

Hubbell stopped by Foster's office on July 19, and Foster told him that the weekend had been good for him and that he and Lisa were planning to go away the following weekend. Lisa Foster recalls that she and Foster had spoken about going away the following weekend but that no plans had been made. Foster also told Sheila Anthony during a telephone conversation on July 19 that the weekend had gone well, and he contemplated getting away more often. He also said that he was not yet ready to contact a psychiatrist.

On the same date, Foster contacted Dr. Larry Watkins, his physician in Arkansas. He told Watkins that he was under a great deal of stress and was depressed, that he had a loss of appetite and was losing weight. Watkins prescribed an anti-depressant drug called Desyrel, which has the generic name trazadone. Watkins stated that he had never before prescribed an anti-depressant for

Foster. A pharmacy in Washington filled the prescription for 30 tablets, in a dosage of 50 milligrams per tablet, and had the tablets delivered to Foster's home in the late afternoon on July 19.* Lisa Foster saw Foster take one tablet during that evening.

Foster left work earlier than usual that day and arrived home around 7:45 p.m. During the evening Foster received a call from President Clinton. The President had heard that Foster was feeling down about the Travel Office matter and called to invite Foster to watch a movie with him and others at the White House. Foster declined the invitation. After chatting about Foster's weekend in Maryland, the President told him that he wanted Foster's advice on possible White House organizational changes. They agreed to meet on Wednesday, July 21. The President did not perceive during this conversation that Foster was downcast or depressed.

F. Foster's Activities On July 20

Lisa Foster recalls that Foster left for work at about 8:00 a.m. She saw him for the last time standing "stiffly" in the kitchen before he left for work. As usual, Foster drove to work in their 1989 light grey Honda Accord which still bore Arkansas license plates. On the way to the White House, he dropped his son, Vincent, at a Metro station and his daughter, Laura, at work. Soon after Foster arrived at the White House. he ... the regular

* The pharmacy had no record of any prior prescriptions for Foster.

Note 1b

9:00 a.m. Counsel's Office staff meeting.* Following the meeting, Foster went to the White House Rose Garden to attend the ceremony announcing the selection of Louis Freeh as Director of the FBI. Foster then returned to his office.

Later that morning, Foster walked into Nussbaum's office, where Nussbaum was watching television coverage of two events: the Freeh nomination and Ruth Bader Ginsburg's Supreme Court confirmation hearings. Nussbaum was exuberant about both nominations. He said to Foster, "We hit two home runs today." Foster seemed distracted and his response was markedly understated.

At approximately 12:00 noon, Foster asked Linda Tripp, an Executive Assistant to Nussbaum, to get him lunch from the cafeteria. A short time after Tripp went to the cafeteria, Thomas Castleton, an employee in the Counsel's Office, arrived at the cafeteria and told Tripp that Foster had sent him to find out what was taking so long. Tripp delivered Foster's lunch and added some M & M's to the tray. Foster sat on the couch in his office and ate his lunch while reading the newspaper. At about 1:00 p.m., he came out of his office holding his suit jacket, without a briefcase. He told Tripp that there were still some M & M's on the tray if she wanted them. He said, "I'll be back," and then left.

Foster did not return to the White House. A number of people tried unsuccessfully to reach him by telephone. C. Brantley Buck, Foster's former partner at the Rose Law Firm, called to

* Nothing of significance to the subject of this Report occurred during that meeting.

discuss finalizing work that Buck had been doing to set up a blind trust for the Clintons. Foster, who was acting as Buck's contact point at the White House, was supposed to have the Clintons sign some documents to complete the process. Buck stated that there was nothing about the blind trust that would have provided a source of concern to Foster, nor did Foster ever express any such concern.

James Lyons called to finalize plans for his meeting with Foster, scheduled for the following day. Gordon Rather, an attorney from Little Rock, called to discuss a routine matter regarding the American Board of Trial Advocates. A number of people within the White House also tried to reach Foster to discuss ongoing White House projects with which Foster was involved.

We have been unable to determine where Foster went following his departure from the Counsel's Office at about 1:00 p.m. We have also been unable to determine with certainty when Foster entered Fort Marcy Park. One motorist traveling on the George Washington Memorial Parkway saw a Japanese-made car driven by a white male swerve from the left lane of the Parkway into Fort Marcy Park some time between 2:45 and 3:00 p.m. on the afternoon of July 20. When interviewed shortly after Foster's death, the motorist told the Park Police that he recalled that the license plate on the car was from either Arkansas or Ohio. When he was recently shown pictures of Foster's car, the motorist stated that he did not believe that it was the car he saw on July 20 because

the license plate he saw identified the State in the lower right hand corner of the plate.*

Another man stated that he drove into Fort Marcy Park between 4:15 and 4:30 p.m. He observed two cars in the parking lot of the Park at that time. He described one as a brown Japanese-made car with an Arkansas license plate. When shown photographs of Foster's car, he stated that the car he saw appeared darker in color and more compact. He stated that nobody was in the car, but there was a man's suit jacket folded over the passenger seat of the car. He recalls that the car was parked in one of the first spaces on the left side of the lot, which is where the Park Police found Foster's car following his death. The Park Police also found Foster's suit jacket draped over the front passenger seat of his car.

G. Discovery Of Foster's Body

1. Fort Marcy Park

Fort Marcy Park is located adjacent to the northbound lanes of the George Washington Memorial Parkway in Fairfax County, Virginia. The only vehicular entrance is from the Parkway, although there is a small opening in the fence on the Chain Bridge Road side of the park for use by pedestrians. A short drive from the Parkway entrance, there is a parking lot. Several foot trails lead from the lot. The original Fort Marcy was one of a ring of fortifications constructed during the Civil War to defend

* In recent years only the State of Montana has a license plate that identifies the State in the lower right corner.

Washington against Confederate attack. It is now a National Park. One path from the parking lot leads up to two cannons dating from the Civil War.

No one interviewed during this investigation had ever heard Foster mention the Park, or knew of Foster ever visiting the Park prior to the date of his death.

2. Observations by Confidential Witness

Foster's body was discovered in Fort Marcy Park at approximately 5:45 p.m. on July 20 by a man who has requested that his identity remain confidential. As a result, this individual will be referred to only as a confidential witness ("CW").*

On the afternoon of July 20, at approximately 5:30-5:45 p.m., CW was driving north on the George Washington Memorial Parkway in heavy traffic when he turned into Fort Marcy Park to urinate. When he arrived, he observed two cars in the parking lot. He described the first as a compact Japanese-made car of a light color (he is not sure of the exact color) parked in the second or third space on the left as one enters the lot.** The other he described as a white Honda Accord parked near the rear of the lot. CW had visited the Park many times and was familiar with its layout.

* CW initially provided this information to G. Gordon Liddy, who hosts a radio call-in program broadcast from the Washington, D.C. area. Mr. Liddy subsequently arranged for this Office to meet with CW after receiving assurances that we would respect his confidentiality.

** This is approximately the location where Foster's car was located.

Note 19, 20

Police located

CW followed a path off the parking lot for approximately 200 yards until he reached the second cannon, which faces a raised berm that runs along the original Fort's perimeter. CW walked just over the berm, stopping at a point about 15-20 feet to the right of the cannon.* He noticed to his left what he first thought was a pile of trash located on the slope just over the berm in front of the cannon. He went over to look, and realized that it was a body. He stood at the top of the berm, just above the head of the body. The body appeared to be a man dressed in a white dress shirt, "expensive" trousers, and black dress shoes. CW stated that the man's head was either straight up or slightly tilted to the right, his arms were straight down at his sides. CW further stated that he believed the man's palms were facing upward. He did not see a gun in the man's hands but said it was difficult to see his hands because of the dense foliage in the area where the body was lying. CW acknowledges that, because of his position at the top of the berm and the heavy foliage, there could have been a gun in the man's hand that he did not see.

CW saw what appeared to be dried blood on the man's lips and nostrils. He also noticed a purple stain, which he believed to be a mixture of wine stains and vomit on the right upper shoulder and chest of his shirt. CW stated that he never touched the body.

After briefly viewing the body, CW returned to his vehicle and drove to Parkway Headquarters about two miles north of Fort

* CW stated that he walked to this spot because he saw two cars in the lot and wanted to be assured that he would have privacy.

Marcy Park, where he hoped to find a telephone. When he pulled into the parking lot he saw two uniformed park maintenance employees. CW provided the employees with the location of the body and drove off. He did not leave his name and the maintenance workers did not observe his license plate.*

3. Observations of the U.S. Park Police and Fairfax County personnel

Computer records and audio recordings establish that at 5:59 p.m., using a public telephone, one of the Park maintenance workers dialed "911" to report the information provided by CW. He was advised by the Fairfax County Police dispatcher that because the body was found in the Park, the Park Police was the appropriate authority to respond. At 6:02 p.m., the maintenance worker reached the Park Police dispatcher and reported the information received from CW.

Following receipt of these calls, the Fairfax County Fire and Rescue Department dispatched Emergency Medical Services ("EMS") personnel to the Park, and the Park Police dispatched officers and investigators. At 6:09 p.m., a medical unit and an engine unit from Fairfax County EMS arrived at the Park. At approximately the

* In order to test the veracity of the information provided by CW, this Office performed a detailed analysis of that information. CW provided details that have never become public, and that could only have been known by the person who discovered Foster's body. These details include specific information regarding the appearance and location of the body, the date and time of the cars in the parking lot, the physical characteristics of the park maintenance workers, and the short conversation between CW and the maintenance workers.

Note
22

same time Officer Kevin Fornshill of the Park Police arrived. They split up to look for the body.

Fornshill was first to arrive at the body. His description of its location is identical to that reported by CW. Fornshill observed the body from the top of the berm as had CW and reported that Foster's head was near the top of the berm directly in front of the second cannon.

Representatives from this Office and the FBI have gone to this site numerous times. The berm on which Foster was found is located approximately ten feet in front of the cannon. There is a short incline on the inside of the berm facing the cannon. From the top of the berm, the ground falls away to form the outside embankment of the Fort. Foster was found on the outside of the berm, toward the top of the embankment. The embankment is about twenty to twenty-five feet in length, sloping at about a 45 degree angle.

Fornshill described Foster's body as lying straight up with his head slightly tilted to the right. From his position at the top of the berm, Fornshill could not see a gun, but noted that the natural foliage around Foster's body blocked his view of Foster's hands. Even after the EMS personnel arrived and stated that Foster had a gun in his right hand, Fornshill still could not see it from the top of the berm.

The first EMS personnel to arrive at the body were Todd Stacey Hall and George Gonzalez. Each of them moved next to the body and saw a gun in Foster's right hand, partially concealed

beneath the hand and right leg. Hall checked for a pulse against the left side of Foster's neck and found none. Hall states that he did not move Foster's head during this time.

Shortly thereafter an additional group of EMS personnel and Park Police officers arrived at the body. Polaroid and 35 mm photographs were taken of the body and the surrounding area. The 35 mm photographs were underexposed and of little value, despite the FBI Lab's effort to enhance their quality. The Polaroid photographs, however, clearly depict the condition of Foster's body shortly after the arrival of the Park Police. The photographs show blood stains on Foster's face and on the right shoulder of his shirt. The staining on his shirt covered the top of his shoulder from his neck to his upper arm. The photographs of his face show two lines of blood, one running from the right corner of his mouth to below the right ear, and the other from the right nostril toward the temple above the right ear. The photographs also show a larger area of blood staining Foster's right cheek and jaw, forming what is described in the FBI Lab Report as a "contact stain." Lab Report at 9.*

* Two members of Fairfax County EMS, George Gonzalez and Richard Arthur, have expressed doubts about what Foster's death was the result of a suicide. In 1991, these doubts were caused by observations of what appeared to be bullet wounds on Foster's face. Gonzalez believed there were bullet wounds on the right portion of Foster's forehead. He stated that he saw a bullet wound in the right side of Foster's forehead. However, these wounds did not exist. The autopsy results showed no bullet wounds were taken at the scene, and the observations made by the investigators conclusively show that there were no bullet wounds on Foster's face.

Note 2/27

At approximately 6:35 p.m., Park Police Investigators arrived at the body. Park Police Investigator John Rolla observed that some of the blood on Foster's face was still wet when he arrived, but was starting to dry. He touched Foster's body and noted that it was still relatively warm (which could have been a result, in part, of the ninety degree heat that day) and there were no signs of rigor mortis.* Foster's clothes were neat and there was no sign of any struggle. Foster was wearing his White House paging device, which had been turned off. A pair of eyeglasses, identified by Lisa Foster as belonging to her husband, were found about thirteen feet below Foster's body at the bottom of the berm.

Park Police Technician Peter Simonello was responsible for removing the gun still held in Foster's right hand. He noted that the knuckle of Foster's right thumb was trapped between the front surface of the trigger and the inside of the trigger guard of the gun. Simonello stated that Foster's hand was flexible, but that he had to half cock the weapon in order to remove his thumb. After removing the gun, Simonello observed a deep impression on Foster's thumb where the trigger had been located. He further saw powder residue on Foster's thumb and along the edge of Foster's right index finger. Photographs taken at the scene and at the autopsy show this powder residue, and a photograph taken at the autopsy shows the mark on Foster's thumb. The gun, a .38 caliber Colt

* As stated in the Path information is insufficient to determine time of death during that afternoon. Pathologi

e available
ime of death

Note 24

revolver, was found to contain one unexpended cartridge and one cartridge case from which a bullet had been fired.

While one group of Park Police officials continued to examine Foster's body, others conducted an inspection of the cars in or near the parking lot. When the Park Police and EMS personnel first arrived, they observed three cars within the Park. The first was a blue Mercedes flashing its hazard lights, located just inside the entrance to the Park. This car belonged to a woman who had pulled into the Park late in the afternoon when her car had begun to malfunction. She immediately left the Park on foot and a tow truck arrived to pick up the car at approximately 7:00 p.m.

The second car, a white Nissan Stanza parked near the rear of the parking lot, belonged to another woman who drove to the Park with a friend at approximately 5:00 p.m.* They were still in the Park when located by the Park Police a short way down a path leading south from the parking lot. Neither individual heard a gunshot while in the Park or observed anything unusual.

The third car, a grey 1989 Honda Accord with Arkansas license plates, was parked in one of the first spaces on the left near the entrance of the parking lot. The car was registered to Vincent Foster. Park Police Investigators observed a suit jacket that matched the pants worn by Foster, neatly folded over the passenger seat of the car. In the jacket was Foster's White House identification. The keys to the car were located in Foster's pants

* CW accurately described the location and description of this car.

pocket. The car was impounded and searched, but nothing significant to the investigation was found.* Foster's wallet was in his suit jacket and contained \$292, credit cards, and miscellaneous papers, including the list of three psychiatrists provided by Sheila Anthony four days earlier.

At approximately 7:40 p.m., Dr. Donald Haut, the Fairfax County Medical Examiner, arrived at the scene to examine the body. At that point Foster's body was rolled over and those present observed a large pool of blood located on the ground where Foster's head had been. Haut observed a large exit wound in the back of the skull.

Following this examination, additional personnel from Fairfax County Fire & Rescue were dispatched to the scene to transport Foster's body to the morgue. At approximately 8:45 p.m., Corey Ashford and Roger Harrison lifted Foster's body under the arms and placed him into a body bag. The body was wheeled out of the Park on a stretcher and transported to Fairfax Hospital where it was briefly examined by Dr. Julian Orenstein, the physician on duty in the hospital's emergency room, who officially pronounced Foster dead. The body was taken to the morgue, where it was later identified by William Kennedy and Craig Livingstone, a Special Assistant to the White House Counsel.

* The presence in the car of beer cans, an empty pack of cigarettes, and a cork screw was taken by Foster's sons during the trip to the beach

H. The Autopsy

At 10:00 a.m. on July 21, 1993, Dr. James C. Beyer, the Deputy Chief Medical Examiner for the Northern Virginia District, conducted the autopsy on Foster. The autopsy found a contact bullet wound entering the soft palate inside the mouth. A microscopic examination noted extensive gunpowder residue on the soft palate. According to the autopsy report and information subsequently provided by Dr. Beyer, the bullet entered the cranial cavity, significantly damaged the left side of the brainstem and the left cerebral hemisphere of the brain, and exited from the center of the back of the head. The autopsy found no other trauma to Foster's body and found his teeth unbroken. Dr. Beyer found gunpowder-like residue on the lateral portion of both index fingers, with a greater concentration on the right index finger. No alcohol or drugs were found in Foster's blood, although a later analysis by the FBI Lab revealed trace amounts of trazadone, attributable to the anti-depressant prescribed by Dr. Watkins. Photographs taken during the autopsy, as well as microscopic slides of Foster's soft palate and other tissues, were obtained from Dr. Beyer by this Office and reviewed by the Pathologist Panel.* Dr. Beyer certified the death as a suicide.**

* The office
Foster's autopsy, a

** The complete

noperable at the time of
rays were taken.

ttached as Exhibit 8.

Note
27-28

I. The Gun

The Park Police submitted the gun found in Foster's hand to the Bureau of Alcohol, Tobacco and Firearms ("ATF") for testing. ATF identified the gun as a .38 caliber Colt revolver. The gun contained two different serial numbers, indicating that it was assembled with parts from two different guns. The only available records indicate that guns bearing those serial numbers were purchased in 1913.

When shown the gun, Foster's sister, Sharon Bowman, identified it as appearing very similar to the one their father had kept in his bedside table, specifically recalling the pattern on the grip. When her father fell ill with cancer in 1991, Bowman moved this gun and others in her father's collection into a closet within her father's house. In 1991, shortly after her father's death, Bowman showed Foster where she had put the guns and Foster removed them from the house.

Lisa Foster stated that the gun looked similar to one that she had seen in their home in Arkansas and that she had brought to Washington. Foster had packed a trunk prior to going to Washington but did not take the trunk with him. When Lisa Foster "repacked" the trunk for her own move to Washington in June, she saw the gun and brought it with the rest of her belongings.* Lisa Foster felt uncomfortable having a gun in their house, and twice asked Foster to remove it. On the night of Foster's death, she found a gun,

* Foster's children did not recognize the gun as one they had seen in their home.

different in appearance from the gun that she had brought with her from Little Rock, in the closet of her house in Washington. She did not recall seeing any ammunition in their house in Washington. In recent weeks, she found some ammunition at her home in Arkansas, but none of it was .38 caliber.

J. The Park Police Investigation

1. Investigative jurisdiction

Because Foster's death occurred in a National Park, the Park Police, as part of the Department of the Interior, had jurisdiction to conduct the investigation. Park Police Chief Robert E. Langston stated that the Park Police have historically had primary investigative jurisdiction for crimes or possible crimes committed within federal parks.

The FBI would have had primary investigative jurisdiction if the circumstances fell within the Presidential and Presidential Staff Assassination statute, Title 18, United States Code, Section 1751. That statute makes it a federal crime to, among other things, kill the President, Vice-President, or a specified number of persons appointed by the President or Vice-President. The statute further provides that violations shall be investigated by the FBI.* Based on a preliminary inquiry by the FBI which failed

* 18 U.S.C. Section 1751 covers "any person appointed under section 105(a) (2) (A) of title 3 employed in the Executive Office of the President. . . ." Title 3, United States Code, Section 105(a) (2) (A) provides that the President may employ not more than fifty-five employees at a specified rate of pay. In the event of a preliminary investigation by the FBI provided for in this statute, the FBI did not determine whether the activity was criminal or covered by this statute.

*Note
30*

to indicate any criminal activity, the FBI's inquiry into this matter was closed. At the request of this Office, the FBI reentered this investigation in February 1994.

2. Summary of Park Police investigation

In the weeks following Foster's death, the Park Police conducted a number of interviews with family members, White House staff, and others; reviewed documents obtained from the White House and from Foster's personal belongings; and took other investigative steps including fingerprint analyses and an unsuccessful search in Fort Marcy Park for the bullet fired from the gun. The Park Police concluded that Foster's death was a suicide from a self-inflicted gunshot wound to the mouth.

TESTS CONDUCTED BY FBI LABORATORY

In March 1994, this Office obtained from the Park Police and the Medical Examiner's Office all available physical evidence collected in connection with the investigation of Foster's death, and provided it to the FBI Lab for analysis. This evidence included the gun and the ammunition it contained, Foster's clothing and eyeglasses, items found in Foster's car, photographs taken at the scene of the death and during the autopsy, Foster's hair and blood samples obtained during the autopsy, the autopsy report, and relevant portions of the Park Police Report on Foster's death. The FBI Lab performed extensive analyses, as summarized below.

A. Firearm Analysis

The FBI Lab test-fired the revolver found in Foster's hand ("Foster's gun") and found that it was operable. This kind of firearm can be fired by either cocking the hammer and then pulling the trigger (single action) or by simply pulling the trigger (double action).* The cartridge case, a .38 caliber special cartridge case manufactured by Remington was analyzed and found to have been fired inside Foster's gun. The unexpended cartridge was also .38 caliber manufactured by Remington, and bore the same stamp as the expended cartridge.

The FBI Lab found that when Foster's gun is fired, it releases gunshot residue from the muzzle of the gun and from the cylinder gap. As a result, powder and lead residue can be found on objects in close proximity to the gun when fired. An analysis of the photographs taken at the autopsy reveal gunshot residue on the side of Foster's right forefinger and the web area of Foster's right hand. The FBI Lab found this consistent with that vented by Foster's gun when ammunition of the type found in its cylinder is fired with the palm of the right hand positioned near the front of the cylinder or near the muzzle.

The trigger of Foster's gun will automatically rebound when released after firing. On one of the autopsy photographs, there is a visible mark on the inside of Foster's right thumb. The FBI Lab found that this mark is consistent with a mark produced by

* The latter method requires a muc
trigger.

Note 31 he

Foster's gun when "this portion of the right thumb is wedged between the front of the trigger and the inside of the front of the trigger guard of [Foster's gun] when the trigger rebounds (moves forward)." This mark is also consistent with the position of Foster's thumb in the trigger guard as depicted in the Park Police photographs. Lab Report, at 7.

B. Chemical Analysis

Ball shaped gunpowder was found in scrapings from Foster's shirt and undershirt. The FBI Lab found this gunpowder to be physically and chemically similar to the powder found in the empty cartridge case in the gun. In addition, chemical testing of Foster's shirt resulted in a positive reaction for the presence of lead residue. The presence of the residues found on Foster's shirt is consistent with the blast from the cylinder of Foster's gun when fired using ammunition of the kind found within that gun.

The FBI Lab further found one piece of ball powder on the eyeglasses recovered from the bottom of the berm, approximately thirteen feet below where Foster was found. This powder is physically and chemically similar to the gunpowder found in the cartridge case removed from Foster's gun. These facts are consistent with the eyeglasses being positioned near the gun when fired (such as on Foster's face or in his shirt pocket). One obvious scenario is that the eyeglasses were dislodged by the sudden backward movement of Foster's head when the gun was fired, after which the glasses bounced down the hill.

The FBI Lab detected one flattened ball-shaped gunpowder particle in scrapings from Foster's shoes and socks, and one disk-shaped particle on the paper that Foster's clothes were placed on at the Park Police Laboratory. The FBI Lab found that these particles did not originate from the fired cartridge in Foster's gun. These particles are believed to be the result of contamination some time after the clothing was removed from Foster's body.* The FBI Lab concluded that these particles "are not likely associated with this investigation." Supplemental Lab Report, at 3.

C. Blood Analysis

The FBI Lab conducted tests on the blood sample obtained during Foster's autopsy. The tests revealed small concentrations of trazadone, diazepam and nordiazepam. Trazadone is the anti-depressant prescribed by Dr. Watkins and taken by Foster on the evening of July 19. Diazepam is commonly known as valium, and nordiazepam is a metabolite of valium.** The concentrations of these drugs were below generally recognized therapeutic levels.

* Although the Park Police laboratory does take precautions to avoid contamination of evidence, it is a small facility which was conducting a number of unrelated examinations in July 1993. Foster's clothes were laid out to dry on the floor of a "photo lab room" adjacent to the examination area. This room is regularly used by investigators working on investigations and is equipped with equipment. It is possible that the clothes were contaminated.

Note
32, 33

** Lisa Foster stated that she was at her home in Washington, but she was not aware of any other locations in New York.

Foster's blood type was found to be consistent with the blood found on his shirt and undershirt. A visual examination and limited chemical testing of the gun by the FBI Lab did not reveal the presence of any blood. Additional chemical testing was avoided so that the gun could be preserved for subsequent fingerprint and DNA testing. Subsequent testing did detect DNA near the muzzle of the gun which could have been derived from blood or saliva.

D. Analysis of Bloodstaining Patterns

The FBI Lab conducted an analysis of the bloodstaining on Foster's face and clothing as depicted in the photographs taken at the scene. The photographs show Foster's face pointing straight up - his head not tipped to either side. This position is inconsistent with the blood patterns on Foster's face and shirt. The blood on the right shoulder of Foster's shirt "consists of saturating stains typical of having been caused by a flow of blood onto or soaking into the fabric." Lab Report, at 9. The blood on Foster's right cheek and jaw is a "contact stain . . . typical of having been caused by a blotting action, such as would happen if a blood-soaked object was brought in contact with the side of his face and taken away, leaving the observed pattern behind." Lab Report, at 9.

The FBI Lab concluded that the pattern of the blood on Foster's face and on Foster's shoulder is consistent with Foster's face having come into contact with the shoulder of his shirt at some point. Because Foster's head is not in contact with his shoulder in the photographs, the FBI Lab Report concludes that

Foster's head "moved or was moved after being in contact with the shoulder." Lab Report, at 9. The Pathologist Panel endorsed this conclusion, stating that "a rightward tilt of his face was changed to a forward orientation by one of the early observers before the scene photographs were taken." Pathologist Report, ¶ 7.

The FBI Lab also found extensive bloodstaining on Foster's shirt and undershirt, covering a vastly greater amount of his shirt than that depicted in the photographs taken at the scene. This staining is attributable to the movement of the body from the scene, which typically results in additional staining of the deceased's clothing.

E. DNA Analysis

The FBI Lab performed a DNA analysis on material obtained from an area within 5 cm from the muzzle portion of the gun barrel. This DNA was compared to the DNA in Foster's blood, and the FBI Lab found it to be the same type. This DNA type is shared among approximately 6 percent of Caucasians. This material is derived from a cellular material, likely blood or saliva.

F. Fingerprint Analysis

The FBI Lab removed the grips from the handle of Foster's gun for testing. There were no fingerprints found on the outside of the grips or any other exposed portion of the gun. One print

was located on the inner surface of one of the gun's grips. The FBI Lab determined that this was not Foster's print.*

G. Handwriting Analysis

Lisa Foster provided a document that she knew to have been handwritten by her husband, and personal checks that she knew had been signed by him. The FBI Lab compared the handwriting to that on the torn note found in Foster's briefcase on July 26, 1993, and determined that the torn note was written by Foster.

H. Other Analyses

1. The FBI Lab examined the pair of prescription eyeglasses found at the bottom of the berm and compared them to Foster's optical prescriptions provided to this Office by Lisa Foster. The FBI Lab found that the prescriptions were consistent with the determined prescription of the eyeglasses found on the berm. Marks on the earpieces of the eyeglasses were found to be consistent with biting. Lisa Foster stated that Foster had a habit of biting the earpieces of his glasses.

2. The FBI Lab determined that Foster's clothing contained head hairs dissimilar from his own, and carpet type fibers of various colors.

3. When Foster's clothing was examined by the FBI Lab, it "did not contain any coherent soil." Lab Report, at 12.

* The ability to recover prints varies due to a number of factors including the texture of the tested object and characteristics of the person who came in contact with it. Latent prints can be destroyed by exposure to light, such as heat.

Note
34

However, the FBI Lab found small particles of mica on much of Foster's clothing, including his shoes. This mica is consistent with the soil found in the area where Foster's body was found.

I. Search For Additional Evidence In Fort Marcy Park

On April 4, 1994, sixteen individuals from the FBI Lab went to Fort Marcy Park to conduct a search in the area where Foster's body was found.* The purpose of the search was to attempt to find a bullet, bone fragments from Foster's skull, the presence of blood in the soil beneath the location of Foster's body when found, and any other evidence relevant to Foster's death.

In an attempt to locate a bullet, FBI Lab personnel surveyed and marked out a grid in what the FBI Lab determined was the most likely area for the bullet to have landed after passing through Foster's skull. This area was systematically searched using metal detectors. Twelve modern-day bullets were collected during the search and returned to the FBI Lab for analysis. The FBI Lab has determined that none of the bullets found were fired from Foster's gun.**

The area immediately beneath where Foster's body was found was searched by digging and hand sifting the soil and other debris.

* Also present were representatives from the National Park Service and a representative from the Smithsonian Institution.

** In addition, 35 cartridge casings were found. One was fired in Foster's gun. The other 34 were found during the search. A military button was found over to the National Park Service. Attached as Exh.

Note
35, 36

number of cartridges and shell fragments. It was determined that none of these items were Civil War artifacts. Civil War artifacts were also found, including ammunition, nails, horseshoes, and other objects. These items were turned over to the National Park Service. An index of these items is attached.

FBI Lab personnel excavated to a depth of approximately eighteen inches, searching the soil through various screening methods. No bone fragments or bullets were found.

ANALYSIS

A. Analysis And Conclusions Of Forensic Pathology Panel

Four experts in the field of forensic pathology reviewed and analyzed the evidence obtained during the course of this investigation. Each member of the Pathologist Panel was provided unrestricted access to the FBI Lab Reports; the reports of all interviews conducted during the course of the investigation; the report issued by the Park Police following its investigation; the autopsy report; all photographs taken at the scene of Foster's death and during the autopsy; and microscopic slides containing portions of Foster's soft palate obtained during the autopsy. In addition, the Pathologist Panel discussed the evidence with members of this Office, the FBI investigating agents, and FBI Lab personnel. Two members of the Panel met with the Medical Examiner, Dr. Beyer.

After reviewing and analyzing the evidence, the Pathologist Panel issued a report stating its conclusions and summarizing the bases for its conclusions. The Panel concluded the following:

- 1) The bullet wound to Foster's head and brain caused his death;

2) The bullet traveled through the soft palate, entered the cranial cavity, significantly damaged the left side of the brainstem and the left cerebral hemisphere of the brain and exited from the center of the back of the head;

3) The wound caused instantaneous complete incapacitation, followed by clinical death within a matter of minutes;

4) The wound was self-inflicted, resulting from Foster placing the barrel of the gun into his mouth and firing it; and

5) Foster shot himself where he was found in Fort Marcy Park.

The Pathologist Report states that these conclusions were arrived at separately and independently by each member of the Panel.

1. Basis for conclusion that death was a suicide

The Pathologist Panel found the evidence in this case "typical and characteristic of such findings in deaths due to intentional self-inflicted intraoral gunshot wounds." Pathologist Report, ¶ 1. Physical evidence examined by the Pathologist Panel establishes that the gun was fired while in Foster's mouth. Microscopic slides taken during Foster's autopsy reveal a large quantity of gunpowder residue on the soft palate, indicating "that Mr. Foster placed the barrel of the weapon into his mouth with the muzzle essentially in contact with the soft palate when he pulled the trigger." Pathologist Report, ¶ 1.

The Panel also relied on the FBI Lab's finding that the DNA in Foster's blood sample was the same type as DNA found near the muzzle of the gun. This indicates that cellular material from Foster's body likely came into contact with the barrel of the gun.

Logically, this material is either blood or saliva from Foster's mouth.

The condition of Foster's body indicates that Foster voluntarily placed the gun in his mouth. The evidence is inconsistent with someone having forced the gun into his mouth. No broken teeth or other trauma to Foster's body were discovered during the autopsy, and there was no sign of a struggle. It is highly unlikely that someone could have forced a gun into the mouth of a man of Foster's size (six feet, four and one-half inches in height and 197 pounds in weight) without a struggle that would have resulted in Foster sustaining some other detectable injury. Nor was there any evidence that he was incapacitated by drug or alcohol.

The physical evidence also demonstrates that Foster himself pulled the trigger. An autopsy photograph depicts a mark on Foster's right thumb consistent with the recoil of the trigger after firing. Based on the existence of this mark and Park Police scene photographs showing the position of the gun, the Pathologist Panel concluded that after Foster fired the gun, his "right thumb was trapped and compressed between the trigger and the front of the trigger guard." Pathologist Report, ¶ 8.

Moreover, the photographs reveal and the autopsy confirms that there was gunpowder on the portion of Foster's right index finger facing his thumb and in the web area between the index finger and the thumb. Dr. Beyer, the Medical Examiner, also noted a lesser amount of gunpowder on Foster's left index finger. The

gap between the cylinder and the frame of the gun is the logical source for this gunpowder because the muzzle of the gun was in Foster's mouth when it was fired. As a result, the Pathologist Panel concluded "that Mr. Foster's index fingers were in the vicinity of the cylinder gap when the weapon was fired." Pathologist Report ¶ 8.

Finally, the Panel was provided with summaries of interviews with Foster's family and friends during which they described Foster's depressed state prior to his death. The Pathologist Report notes that information that Foster took an anti-depressant prior to his death is corroborated by the finding of a trace amount of trazadone, an anti-depressant, identified in Foster's blood.

2. Basis for conclusion that death occurred in Fort Marcy Park

The Panel concluded that the condition of Foster's body and clothing at the time he was found precludes his having been moved to Fort Marcy Park from another location following his death.

The photographs taken of the body in Fort Marcy Park show modest amounts of blood on his face and clothing. The blood visible on his clothing was limited to a small area on the right shoulder of his shirt, which is consistent with Foster having committed suicide where the body was found. The Panel determined that "[s]ubstantially 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." Pathologist Report, ¶ 3. The extensive blood loss that occurred after Foster's body was moved from the park confirms that finding.

Foster's body was positioned on a steep slope, with his head near the top of the berm and his legs extended down the hill. As a result, when his heart stopped beating, gravity permitted the settling of blood into the lower portions of his body rather than out of the wound in his head. Once the body was laid flat in the body bag for transportation to the morgue, substantial blood loss did occur. Foster's shirt and undershirt were completely saturated with blood when removed from his body before the autopsy. His face and head were also contaminated with additional amounts of blood, as shown in pre-autopsy photographs. Had the body been moved to Fort Marcy Park after his death, the Park Police would have found Foster's body and clothing far more bloodied than they were at the scene.

B. Analysis Of Issues Raised On Circumstances Of Foster's Death

A number of issues have been raised regarding the circumstances of Foster's death. Many of these question the Park Police conclusion that Foster committed suicide in Fort Marcy Park. In this section of the Report we will address those issues. Although it is not possible to provide a definitive response to each of the questions or theories posed, none present circumstances inconsistent with the conclusion that Foster committed suicide in Fort Marcy Park.

1. Why wasn't there more blood on and around Foster's body?

When the Park Police and EMS personnel found Foster's body in Fort Marcy Park, relatively little blood was visible. However, members of the Park Police who were present when Foster's body was rolled over observed a fairly large pool of blood on the ground where his head had been and further noted that the upper portion of the back of Foster's shirt was blood-soaked. The Pathologists' Report provides further explanation for the limited amount of blood observed at the scene:

[A]ny relative lack of extravasated blood can be readily explained by the position of the body on the steeply inclined slope, with blood settling postmortem to the dependent portions of the body, i.e., below the level of the head wounds and by the prompt cessation of cardiovascular activity incident to the bullet wound injury of the brainstem.

Pathologist Report, ¶ 6.

After Foster's body was placed into the body bag and his body laid flat, some of the blood that had settled in the lower part of his body then flowed out, causing significant additional bloodstaining on his clothes and face.

2. Why were Foster's hands found lying neatly at his side?

The final position of Foster's body is explained by his likely position when he fired the gun. The Pathologist Report concludes that Foster was seated at the time he pulled the trigger.* If Foster were lying down, it is likely that the bullet

* This c - buttressed by the observation of a root pattern at t r's death which forms a natural seat a few fe the berm.

Note 37

would have been recovered in the soil beneath his head. If Foster was standing up, "he would not have ended up in the orderly position in which he was found." Pathologist Report, ¶ 6.

If Foster were seated, however, the position of the body was as would be expected following the loss of all motor function caused by bullet-generated trauma to the brainstem. The Pathologist Report concluded that "[a]fter firing the weapon, because of the sloped terrain, he would have fallen backward, with his arms falling to their respective sides by gravity, aided on the right by the weight of the revolver affixed to his thumb." Pathologist Report, ¶ 6.

3. Why was the gun still in Foster's hand?

After firing, the trigger of Foster's gun rebounds forward. Based on an analysis of scene photographs and an autopsy photograph showing a mark on Foster's right thumb, the Pathologist Panel and FBI ballistic experts concluded that Foster's thumb was "trapped and compressed" between the trigger and the trigger guard of the gun. Pathologist Report, ¶ 8. This conclusion is corroborated by the statement of Park Police Technician Peter Simonello who removed the gun from Foster's hand. He stated that Foster's knuckle initially prevented him from removing the gun from Foster's hand. As a result, Simonello half cocked the gun causing the trigger to be pulled back. Only then could Simonello remove the gun.

4. Why was there no blood on the gun?

The FBI Lab could reach no definitive conclusion on whether there was any blood on the gun. The source of the DNA material found on the muzzle of the gun is derived from human cellular material, which could be blood. However, even a determination that there was no blood on the gun would have little significance. The Pathologist Panel found that "[t]he absence of visible blood on the revolver is not inconsistent with the self-inflicted bullet wound [he] sustained. Visual or chemical identification of blood on the weapon in gunshot wound suicides is a common but by no means universal finding." Pathologist Report, ¶ 2.

5. Why did no one hear the shot?

It is impossible to determine conclusively that no one heard the shot. Given the location and circumstances of his death, however, it would not be surprising if the shot went unheard. The Park has few visitors, particularly on a weekday afternoon. It is entirely possible that there was no one else in the Park at the time that Foster fired the shot.

The closest building to the Park is the official Saudi Arabian Ambassador's residence located across Chain Bridge Road, a few hundred yards away from the spot that Foster shot himself. Interviews of the security guards at the Saudi Arabian residence and observations made by the FBI reveal that there were sources of noise which could have muffled the sound of a gunshot. First, Chain Bridge Road has a fairly steady stream of traffic in the

afternoon. Second, records obtained through the security guards at the Saudi residence show that construction work involving large vehicles and heavy machinery was occurring at the residence on the date of Foster's death. In addition, the sound of the shot would have been further muffled by Foster shooting the gun inside his mouth and by the Park's dense summer foliage.

6. Why was no bullet found?

The FBI Lab's search for the bullet focused on the most likely area for the bullet to have come to rest based upon certain assumptions of Foster's position when the gun was fired. Given the available information, however, it is impossible to determine where the bullet landed. For example, there is no information on the precise angle of Foster's head when the gun was fired. It is also impossible to predict to what degree the speed or trajectory of the bullet might have changed upon passing through his skull. It would have been enormously time-consuming, costly, and in all likelihood unproductive, to have searched the entire Park for the bullet.

7. Why was no dirt found on Foster's shoes?

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

8. Why were there no powder burns inside Foster's mouth?

The Pathologist Panel was able to examine microscopic sections of Foster's soft palate obtained during the autopsy. These sections reveal large quantities of gunpowder indicating that the muzzle of the gun was inside Foster's mouth when he pulled the trigger. The Panel did not observe any burns caused by the muzzle blast, but added that such burns would not necessarily be expected under these circumstances.

9. Why was there no gunpowder on Foster's face?

The question of whether there was gunpowder on Foster's face remains unresolved. The scene and autopsy photographs show scattered "stippled material" on Foster's face. This material was not examined during the autopsy. It is uncertain whether this "stippled material" represents "gunpowder residue, blood spatter, or some other foreign material. . . ." Pathologist Report ¶ 8.

10. Why didn't CW see a gun in Foster's hand?

CW has stated that he viewed Foster's body from the top of the berm. He did not move down the berm to view the body from the side. CW has further stated that the natural foliage in the area made it difficult to see Foster's hands. In addition to the foliage, photographs taken at the scene show that Foster's right hand and leg obscured a large portion of the gun.

Observations of Park Police officers who also viewed the body from the top of the berm confirm that it was difficult to see the gun from that position. Officer Kevin Fornshill stated that he

was unable to see a gun in Foster's hand while viewing the body from the top of the berm due to the dense vegetation around Foster's body. He stated that he could not see the gun even when it was specifically referred to by a medic from Fairfax County EMS, who was positioned next to the body. Similarly, Ralph Pisani, a technician with Fairfax County EMS, was positioned about fifteen feet from the body at the top of the berm when he asked a colleague where the gun was. Even after he was told that the gun was in Foster's right hand, he was unable to see it from his position.

CONCLUSION

This Report does not purport to provide definitive answers to all questions surrounding Vincent Foster's death. Obviously, it is impossible to completely understand how or why he came to the point at which he decided to take his own life.

The overwhelming weight of the evidence compels the conclusion, however, that Vincent Foster committed suicide in Fort Marcy Park on July 20, 1993. Although the contributing factors to his depressed state can never be precisely determined, there is no evidence that any issues related to Whitewater, Madison Guaranty or CMS played any part in his suicide.