

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D.C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: _____

TO: Hickman Ewing

Company Name: _____

Fax Number: _____ Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 4 (including this cover sheet)

Message: As requested . . .

CONFIDENTIALITY NOTE

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TO: BRETT KAVANAUGH

Revised 4/14/95

FROM: SA FOIA(b)7 - (C)

SUBJECT: DISCREPANCY LIST

The following list is offered as a comprehensive and itemized outline of all of the noted discrepancies, inconsistencies, and problems that have been identified in the Vincent W. Foster death investigation to date. The outline is broken down into the following areas: U.S. Park Police, Emergency Medical Technicians (EMTs), the White House, Northern Virginia Medical Examiner, Miscellaneous, and Forensic Examinations.

- I. U.S. Park Police
 - A. No gunshot residue samples of the decedent's hands.
 - B. Lack of complete documentation of the gunshot residues on the left hand.
 - C. Poorly diagrammed death scene; lack of measurements.
 - D. No photo log; no documentation regarding who took what photographs, and the total number of photos.
 - E. Death scene 35mm photos did not develop.
 - F. No documentation regarding the initial search of the decedent's vehicle at the death scene- no inventory.
 - G. Photo of an unidentified briefcase next to a U.S.P.P. vehicle.
 - H. Decedent's pager returned too soon; no records obtained regarding previous pages.
 - I. Suicide weapon processed with dust prior to other laboratory exams.
 - J. Inconsistent statements regarding moving and searching the body. (Rolla, Braun, Simonello, Hodakaviec)
 - K. Inconsistent and poorly documented autopsy.
 1. Morrissette's report.
 2. No gunshot residue samples from hands.
 3. No fingernail clippings/scrapings.
 4. No major case prints of decedent (palms, sides and tops of fingers).
 5. No photo of left hand.
 6. Possible contamination of evidence subsequent to autopsy at M.E. Office.
 7. Inconsistent statements regarding what was done to the body prior to autopsy.
 8. No description of body and clothing prior to autopsy.

1-Starr

① Tuohey

1- Kavanaugh

1- Gillis

1-29D-LR-35063

L. Possible contamination of evidence at U.S. Park Police facility.

M. Poor interview and documentation of witnesses at death scene (Doody and Feist).

N. Photo of an unidentified white male wearing plainclothes at death scene.

O. Inconsistent statements regarding vehicle doors being locked/unlocked. (Braun, Rolla, Hodakievic, Simonello, Gavin)

P. All photographs not produced pursuant to initial subpoena.

Q. Inadequate and incomplete metal detector search by the USPP. (Operators had no prior experience or training)

II. Inconsistent statements and observations of Fairfax County Fire and Rescue personnel.

A. Wound on neck (Arthur: .45 cal. bullet hole.)

B. Gun under thigh.

C. Wound on upper right front of skull (Gonzales) >

D. Briefcase in vehicle.

E. Unidentified person in woods (Hall).

F. Vehicle doors locked.

G. Death scene photos do not accurately depict scene.

H. Two unidentified white males walking from death scene.

I. Color of gun was silver.

J. Type of gun was semiautomatic pistol (Arthur).

K. Statements of initial paramedics at scene regarding their actions are inconsistent with Fairfax County paramedic protocols.

L. Report coded as a homicide (Ashford).

III. Medical Examiner

A. X-rays

1. Autopsy report indicates x-rays were taken.

2. Morrisette's report indicates Beyer told him x-rays were taken.

B. All individuals present at autopsy not indicated on autopsy report.

C. No photographs of decedent's left hand.

D. Inconsistent statements regarding removal of decedent's tongue and palate. (see I.7)

E. Inconsistent "on-scene" times reported for Dr. Haut; 7:40 pm and 7:15.

F. Stomach contents; no definitive digestion time, or positive identification.

IV. White House

A. Foster's office unsecured until 7/21/93, approximately 10:10 a.m.

B. Confidential trash bag removed and replaced.

C. Nussbaum enters office; removes small photo.

D. Pond rearranges papers on Foster's coffee table.

E. Exclusive initial review of documents by Nussbaum.

F. Torn note found one week later in briefcase previously searched by Nussbaum.

G. Note not released to investigators until the following week; a day after it was discovered.

V. Miscellaneous

- A. CW's inconsistencies.
 - 1. positioning of decedent's hands.
 - 2. no gun.
 - 3. winecoolers and briefcase in vehicle.
 - 4. trampled area around death scene.
 - 5. does not see white car occupied.
- B. Inconsistencies between Doody and Feist's statements.
- C. No initial investigation of the park's "second entrance".
- D. No one heard a gunshot.
- E. The gun exemplifies a "drop gun".
- F. No matching ammo at the decedent's residence.
- G. The decedent's grip on the gun was not the simplest nor the easiest to shoot himself in the mouth.
- H. The decedent never previously spoke of suicide.
- I. The decedent had no particular obsession, "dire predicament", or one thing that would have put him over the edge.
- J. The decedent had dealt with stress before.
- K. The suicide weapon has never been positively identified as belonging to the decedent.
- L. Lisa Foster's initial spontaneous question "was the gun in his mouth?".
- M. Five unaccounted for hours between the time the decedent left work and was discovered dead.
- N. Lack of blood at death scene.
- O. No bullet.
- P. No cadaveric spasm causing decedent to clench gun.
- Q. The gun did not fly out of the decedent's hand.
- R. No chipped teeth noted by M.E.
- S. No flashburns inside mouth noted by M.E.
- T. The mortician lost the original embalming report and diagram.
- U. The decedent's glasses were discovered 13' downslope from his body.
- V. Body neatly laid out; "as if it was in a coffin".

VI. Forensic Examinations

- A. Unidentified latent print on note.
- B. Unidentified latent print inside grip of suicide weapon.
- C. Unidentified blonde head hairs.
- D. Unidentified carpet fibers.
- E. Unidentified stain on shirt. (shirt being resubmitted to lab)
- F. Unidentified gunpowder in scrapings from decedent's shoes and socks, and the paper that they were dried on.
- G. The decedent's head was moved.
- H. No blood on suicide weapon.
- I. No soil on shoes. (mica flakes)
- J. Large semen stain in the decedent's underwear.
- K. Blood flowed uphill (video).
- L. Excavation of site disputed.

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telephone (202) 514-8688

facsimile (202) 514-8802

Date: 5/19/95

TO: Hick

Company Name:

Fax Number: Telephone Number:

FROM: Chuck

Number of Pages: 2 (including this cover sheet)

Message:

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MEMORANDUM

TO: Judge Starr
Mark Tuohey
Hickman Ewing
John Bates
Dana Gillis
Russ Bransford
FOIA(b)7 - (C)

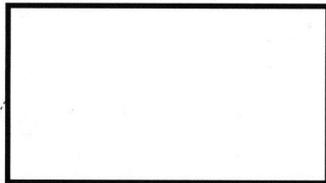
FROM: Brett Kavanaugh

CC: Any St. Eve

RE: Foster Grand Jury Schedule for Week of May 22, 1995

DATE: May 19, 1995

The following individuals will appear before the grand jury in Washington during the week of May 22:



In addition, Dana, Russ, and I will begin the review of documents from Vincent Foster's office on Wednesday, May 24, at the White House Old Executive Office Building. I cannot provide a reliable estimate of how many hours, days, or even weeks the review will take.

FOIA(b)3 - Rule 6(e), Federal Rules of Criminal Procedure

FOIA(b)7 - (C)

5/19/95

From: To: Mark
Hick
Brett
Dana

re: Homicide Consultants

Due to the continued concerns and questions regarding whether we have done everything possible in the Foster death investigation, specifically with regards to the physical evidence, a possible recommendation would be to obtain the services of a panel of "outside" homicide experts/consultants. The consultants would primarily be used to review all of the interviews and physical evidence to identify any potential investigative leads or forensic examinations that we may have overlooked. Additionally, the consultants could be asked to formulate a conclusion as to whether the evidence overwhelmingly indicates suicide, and whether we have been able to conclusively rule out homicide. Also, if it is still an issue, the consultants could address the findings and conclusions in the Western Journalism Center report of 4/27/95.

I would recommend a panel of at least three consultants for the review. The following is a list of experienced, well-respected homicide consultants:

Henry Lee
Vernon Geberth
Ronald Holmes
Dr. James Fox, Northeastern University, Criminology Dept.
Robert Hazelwood
Vincent DiMaio

I am familiar with all of the above individuals from their various articles and books about death investigations, and forensic techniques in death investigations. Their teachings and theories are the most modern, and consistent with "real-life" death investigations, that I am familiar with. I can obtain additional names from Behavioral Sciences, if necessary.

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TO: Judge Starr
Mark Tuohey
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Russ Bransford

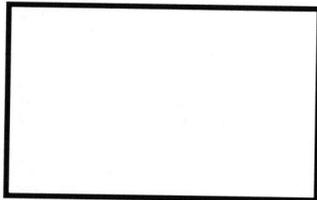

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