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## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/12/94

BERNARD W. NUSSBAUM former White House Counsel appeared at the Office of the Independent Counsel in Washington, D.C. for a second "non-6(e)" interview regarding the death of VINCE FOSTER, Jr. and the handling of FOSTER's papers the evening of July 21 and other related events. NUSSBAUM appeared with attorney PETER L. ZIMROTH of ARNOLD & PORTER, 399 Park Avenue, New York, New York 10012-4690, telephone (212) 715-1010; and LAWRENCE B. PEDOWITZ of WACHTELL, LIPTON, ROSEN & KATZ, 51 West 52nd Street, New York, New York 10019-6618, telephone (212) 403-1000. Also present during the interview representing the Office of the Independent Counsel were attorneys CARL STICH, MARK STEIN and BETH GOLDEN.

NUSSBAUM advised that he had a close working relationship with VINCE FOSTER, Jr. He recalls that FOSTER was very depressed during the last weeks of his life and was not functioning well during that time period. NUSSBAUM said that he knew FOSTER was doing quasi personal functions for the First Family. He placed a great deal of trust in FOSTER to handle those matters for the First Family because of his personal closeness to them. He used the term quasi personal because there was always an official link to the Presidency. Two prime examples were the completion of tax forms and creation of a blind trust for the First Family's assets.

NUSSBAUM explained that at the time of FOSTER's death, these things were virtually completed (the deadline for the blind trust was August 1). Nobody else in The White House and, specifically, the Counsel's office in The White House could do these things. More and more they had been turned over to WILLIAMS & CONNOLLY to attend to and after FOSTER's death, this process accelerated. NUSSBAUM wanted to get everything that could be referred to WILLIAMS & CONNOLLY (specifically BOB BARNETT) turned over to them completely.

NUSSBAUM said that he does not remember who asked that there be an inventory of FOSTER's office but he recalled that the U.S. Park Police were there on July 21, 1993 to discuss the

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matter. That morning Major ROBERT HINES and Police Chief ROBERT LANGSTON of the U.S. Park Police were at a meeting/briefing (NUSSBAUM characterized it both ways) and mentioned that they would be sending people over to conduct some investigation. NUSSBAUM does not think that they requested an inventory of the office at that meeting, but it occurred to NUSSBAUM that coordination was going to be needed otherwise there would be waves of investigators from various agencies wanting to come over to The White House to conduct investigations. He therefore called Department of Justice to act as that coordinator. NUSSBAUM recalls a meeting late in the afternoon of July 21 with DAVID MARGOLIS and ROGER ADAMS of the Department of Justice, and several people from the Park Police being there. He does not remember if the Park Police took an active role in that meeting.

NUSSBAUM said that he was having to balance a number of factors with regard to allowing an inventory of FOSTER's office. Certainly the request to examine FOSTER's office for a suicide note or some other item which would be prima facie evidence of why he died was a legitimate request. There was never a consideration that the purpose of the search was to identify everything that FOSTER was working on. There were issues of national security. There were sensitive appointments and other sensitive matters, including matters which may have been covered by executive privilege. The question for NUSSBAUM, as he saw it, was how to satisfy DOJ's fundamental need to satisfy themselves that there was nothing that would, on the face of it, provide a reason for FOSTER's death, and on the other hand, to protect those White House issues that needed to be protected from disclosure. It was not an all or nothing matter. NUSSBAUM sought a compromise. The way he saw this unfolding was that he would seal the office until they would all go in together and NUSSBAUM himself, in the presence of law enforcement officials would look through things in the office. They could observe and briefly hear what was in FOSTER's office and see that nothing was being hidden from them.

On July 21, NUSSBAUM told MARGOLIS and ADAMS about the procedure he wished to use. He describes their reaction as understanding what needed to be done and that they went along with it. He does not remember them expressing any serious disagreement with the procedure as he had outlined it to him and he advised that they never threatened to leave The White House if they were not allowed to view documents themselves. NUSSBAUM said that in addition, at the end of it they seemed to be

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satisfied. He noted that the two men seemed a little "fidgety" at the beginning of this inventory but by the time it was over, they seemed fine.

With regard to NUSSBAUM's conversation with PHILIP HEYMANN, then Deputy Attorney General, NUSSBAUM does not remember HEYMANN ever objecting seriously to the procedure that NUSSBAUM planned to use during the inventory. The only conversation that NUSSBAUM remembered with HEYMANN after the inventory was the evening of the inventory, July 22, 1993. NUSSBAUM recalls that HEYMANN called NUSSBAUM at home and the salient point from the conversation that NUSSBAUM recalls was the suggestion by HEYMANN that contents of FOSTER's office remain untouched and NUSSBAUM told HEYMANN that he could not do that. HEYMANN did not express objection to NUSSBAUM's refusal to do that.

NUSSBAUM said he has only a vague recollection of there being a telephone call with HEYMANN during the time that MARGOLIS and ADAMS were at The White House on July 22. NUSSBAUM, in addition, did not recall telling HEYMANN that he had to talk to some people about this and promising to call HEYMANN back.

NUSSBAUM was adamant that if HEYMANN had said that he would pull his people out if NUSSBAUM conducted the search the way he planned to, NUSSBAUM would have adhered to HEYMANN's wishes-not through a sense of obligation, but because "he just would have". NUSSBAUM opined that people are remembering events in hindsight and it is changing how they are remembering their feelings at the time. What he remembers from the atmosphere of the inventory itself was that it was an unusual thing for them all to be doing. They were not expressing enthusiasm or disgruntlement, and at the end of the inventory they acted satisfied, not displeased, at the way things had been handled.

NUSSBAUM felt he had chosen a procedure which showed them that nothing was going to be destroyed, and if they wanted files they could ask for them. Everything was available to them. It was, however, available through the appropriate people. He wanted them to have to go to CLINTON's lawyer for First Family personal papers and to FOSTER's lawyer for FOSTER's personal papers and to himself for White House Counsel related material. Nobody was even thinking of Whitewater at the time. It was for the foregoing reasons primarily that during the inventory NUSSBAUM generically identified files without going into specific explanation as to their content.

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NUSSBAUM advised that he felt he was making reasonable, intelligent decisions and that no real objection was being fielded against those decisions. If they had been dissatisfied with what had gone on, they could have come back to The White House Counsel's office or to The White House after the inventory and complain or ask to see documents. The fact of the matter is they did not. Even after the note was found on July 26 which enumerated certain issues that FOSTER had been upset about nobody made specific requests to see files that corresponded to those issues. NUSSBAUM opined that for people to come forward now, after the fact, and protest so loudly is "nonsense".

NUSSBAUM advised that the process of how to do the inventory and how to handle the matter of FOSTER's papers was an evolutionary process. He said the moment that they started to see items in FOSTER's office, such as the log, NUSSBAUM decided to set those things aside to be given to FOSTER's lawyer. There was no agreement set in stone beforehand as to how to handle specific items. NUSSBAUM has a general recollection of discussing with MARGOLIS their looking together at a document but has no specific recollection of their conversation. NUSSBAUM said he does remember that he was worried that if anybody saw a document he would, in effect, waive any privilege that existed in the document. He reiterated that he does not remember reaching an agreement of any sort at the end of the meeting on July 21.

In response to a question as to whether or not he discussed what procedures to use for the inventory with anybody else at The White House, NUSSBAUM said, "yes", that there was a meeting on July 22, as the Department of Justice individuals MARGOLIS and ADAMS were arriving. At that meeting was MACK MCLARTY, WILLIAM BURTON, JACK QUINN, STEPHEN NEUWIRTH, possibly ROY NEEL, and NUSSBAUM himself. It lasted approximately a half an hour. He realizes that MARGOLIS and ADAMS were kept waiting for a total of approximately four hours partly because NUSSBAUM was at meetings unrelated to the inventory. NUSSBAUM said BURTON probably called him to attend the meeting.

NUSSBAUM recalled that QUINN thought that they should not let anybody into FOSTER's office at all, but should do the inventory themselves first. NUSSBAUM responded to him that you can not do that with law enforcement individuals. You have to let them see what you are doing. There were no specific issues that they were trying to cover up. It was a turf consideration relating to access to a White House office.

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NUSSBAUM said that he did not talk to the President or HILLARY RODHAM CLINTON during this time. Nobody told NUSSBAUM they had talked to the President and NUSSBAUM got the impression that somebody had spoken with the First Lady and that she just wanted it done the right way. NUSSBAUM speculated that perhaps BILL BURTON had spoken with her. He advised that she was not "calling the shots". NUSSBAUM said he himself was making the decisions and there was no cover up of anything.

With regard to FOSTER's briefcase which was looked at during the inventory on July 22, and supposedly emptied, NUSSBAUM said that he remembers he had been looking into drawers and into files sitting at FOSTER's desk during the inventory, and he remembers reaching back and down for FOSTER's briefcase. He pulled it next to him on the floor and reached in and pulled the files out, glancing down as he did so. As he glanced down he does not remember seeing scraps of paper. He then looked at what he had pulled from the briefcase. He remembers they were Travel Office files. He did not replace the files in the briefcase but put the briefcase back against the wall. He remembers feeling that the briefcase was empty of files and he might have said, "It's empty".

After the inventory, he was selecting files for distribution to various parties who would be handling the matters. He went back into FOSTER's office. He told NEUWIRTH to do a listing of all the contents in the office so that he could divvy up matters to different people. Either he himself or he asked CLIFF SLOAN to call MAGGIE WILLIAMS into the office to take files pertaining to the First Family matters. Both WILLIAMS and NUSSBAUM looked at the files and packed them up in a box. TOM CASTLETON was called in to take them over to the residence White House area. They were sent to CLINTON attorney BOB BARNET of WILLIAMS & CONNOLY on July 26, 1993. This was done for two reasons: 1. The Counsel's office was not going to do any more work on these matters and 2. NUSSBAUM described himself as "action oriented" he wanted to just do it. It was his personality. It was his idea. Nobody told him to do it. He also wanted them to be somebody else's "hassle". NUSSBAUM advised that he never heard of any files being moved to any intermediate location but admitted that it could be possible.

With regard to events on July 26 and 27, 1993 when STEPHEN NEUWIRTH found the torn up note in the bottom of VINCE FOSTER's briefcase, NUSSBAUM explained his reaction was that this

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was the sort of thing that they had been looking for during the search. As soon as he found it he went to see Chief of Staff MACK MCLARTY then remembered that he was out of town. He remembered getting HILLARY CLINTON and showing her the note. She looked down at it and reacted in a way that told him that it was a very emotional issue for her and she said to him something like "you do what you think is right." He then made efforts to reach MCLARTY and MARK GEARAN. NUSSBAUM said that WILLIAM BURTON was working with him regarding these efforts. BURTON wanted to research issues of whether or not they even had to turn it over to anybody. NUSSBAUM had already decided that they were going to turn it over but he felt strongly that 1) LISA FOSTER must see it first, so he called her attorney HAMILTON and was told that she was, in fact, flying in at 2:00 pm the following day and could come to The White House for a 3:00 appointment to see the note and 2) NUSSBAUM felt the President should have the option to see it before it was handed over, and he was also due back the following day. No one ever suggested not turning the note over to law enforcement authorities.

On July 27, 1993, the President had a very heavy schedule in the morning and so NUSSBAUM was not able to show him the note in the morning. He showed LISA the note at approximately 3:00 in the afternoon. He contacted either Attorney General JANET RENO or Deputy Attorney General PHILIP HEYMANN. He determined that RENO had an appointment at 6 or 7 pm that evening with (he believes) Chief of Staff MCLARTY at The White House and NUSSBAUM determined he would give it to her at that time. He said he saw the President at approximately 6 pm. The President had already heard about the note and did not want to see it. Shortly thereafter, JANET RENO arrived at The White House for her appointment. PHILIP HEYMANN was with her. She refused to take the note and said to give it to the Park Police. A call was made to the Park Police and they all "sat around" and waited until the Park Police came and took custody of the note.

NUSSBAUM advised that VINCE FOSTER's office was locked in between the time of the inventory on July 22, 1993 and when the note was found on July 26, 1993. NUSSBAUM said that he himself and the Secret Service were the only people that had a key to the office. He is fairly certain that DEBORAH GORHAM did not have a key. He knew nothing of her having a key taped to the underside of her desk. He advised that FOSTER's office was kept locked over the weekend and only TOM CASTLETON was there when people were down in Little Rock for the funeral the Friday before

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that weekend.

With regard to events on July 20, 1993, NUSSBAUM was asked what his purpose of going to The White House was. He responded, "to make calls". He had been at the a restaurant having dinner when he was contacted by The White House and told of FOSTER's death. He was FOSTER's boss. He was also counsel to the President. There was no question but what he had to go to The White House. There were several reasons for this. He knew that they would be dealing with law enforcement officials. There would be various tasks in connection with the death of a member of his staff and there was also an element of grief. Friends gather when such an occurrence happens. NUSSBAUM advised that when he first arrived at The White House, he went to the residence area. He saw the President after The Larry King Show. The President and MACK MCLARTY went to the FOSTER residence. NUSSBAUM said he didn't want to go there. Instead he decided to go to his office. On the way to his office, he thought that perhaps FOSTER had left a note in his office indicating either why he had committed suicide or some other reason for his death, and he decided to take a look.

When he arrived in the Counsel suite, FOSTER's office was already open and PATSY THOMASSON was there. He did not see her downstairs at any time during the evening. THOMASSON and MAGGIE WILLIAMS were both in FOSTER's office. THOMASSON was behind FOSTER's death looking for a note and WILLIAMS was sitting on the couch weeping. He does not recall her having any materials on her lap or beside her.

NUSSBAUM estimated that he arrived in his office ~~approximately 15 minutes after~~ The Larry King Show ended but said that 10:40 pm sounded right. When he got there THOMASSON said that they (meaning THOMASSON and WILLIAMS) had just arrived in FOSTER's office. They only stayed about five minutes and they all left the office together. He advised that nobody had anything in their hands when they left FOSTER's office. THOMASSON and WILLIAMS immediately exited the Counsel's suite. NUSSBAUM himself stayed there and sat at his own desk and made telephone calls to his staff and other individuals notifying them of FOSTER's death. He does not recall seeing anybody else come into the Counsel's suite nor did he observe WILLIAMS or THOMASSON come into the suite again. He advised that he could see anybody going into FOSTER's office from his vantage point. He also, however, admitted that when he was making the telephone calls he

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was very focused on his telephone calls and it is possible that he could have failed to observe someone passing his doorway.

Some time during the evening he remembers being down in NEEL's office and thinks it may have been after he had locked up the Counsel suite on his way out of The White House. NUSSBAUM advised that he is sure that he set the alarm in FOSTER's office before he left that night. He was familiar with the procedure. He does not recall any uniformed Secret Service individual there at any time during the evening. He believes that he left about midnight. He remembers calling BETH NOLAN, CHERYL MILLS and CLIFF SLOAN. He made no long distance calls that he could recall. He may have possibly gone into MAGGIE WILLIAMS office but was not sure and he knows that he did not go into HILLARY RODHAM CLINTON's office that evening.

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/20/94

BERNARD W. NUSSBAUM was interviewed on May 13, 1994 at the Office of the Independent Counsel in Washington, D.C. Also present with MR. NUSSBAUM were attorneys ROBERT B. MAZUR and LAWRENCE B. PEDOWITZ, both of the law firm WACHTEL, LIPTON, ROSEN & KATZ. Attorneys MARK STEIN and CARL STICH represented the Office of the Independent Counsel. After being advised of the identities of the interviewing agents and the nature and purpose of the interview, NUSSBAUM provided the following information:

NUSSBAUM advised that generally speaking the organizational structure of the Counsel's office was himself at the top of the pyramid as Counsel to the President, VINCE FOSTER, JR. as Deputy Counsel under him, and then there were a number of associates such as BETH NOLAN, STEVE NEUWIRTH, CLIFF SLOAN, WILLIAM KENNEDY, CHERYL MILLS and possibly some others he couldn't recall. Under the associates were Assistant Counsels KAY WAYLAND (phonetic), NEIL EGGLESTON, and others he couldn't remember. There were only a few Assistant Counsels. NUSSBAUM advised that he ran it like a law firm. VINCE FOSTER and NUSSBAUM were the Senior Partners. The associates and assistants were the "plodders." They met as a group every morning and assignments were made by NUSSBAUM, sometimes in consultation with FOSTER and the associates themselves. NUSSBAUM would divide work up according to who had expertise to handle particular matters. There were, in addition, two national security staff members, ALAN KRESCO and NEIL WOLAND, who were private attorneys working on counter-intelligence matters. There were also JACK QUINN and TODD CAMPBELL from the Vice-President's office, who sometimes worked with the Counsel's office.

NUSSBAUM advised that DAVID CRAIG LIVINGSTONE worked for WILLIAM KENNEDY, Chief Security Officer in the White House. KENNEDY himself reported to NUSSBAUM and FOSTER directly. NUSSBAUM advised that he did not directly supervise LIVINGSTONE.

NUSSBAUM explained that FOSTER had issues, not people, assigned to him. His issues were primarily those having to do with the First Family, such as the setting up of the Blind Trust,

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the First Family's financial disclosure statements and others. FOSTER was given the First Family issues as a natural result of his knowing the First Family so well. Those issues were related to the Presidency but were also effecting the First Family on a personal level. There was no impropriety in this at all. Nothing FOSTER ever did for the First Family that he knew about was completely personal, even when he handled matters related to personal investments.

NUSSBAUM advised his knowledge of Whitewater has evolved. He was aware that FOSTER had worked on the sale of President and MRS. CLINTON's interest in Whitewater to MCDOUGAL for a nominal amount, and the filing of overdue Whitewater tax returns. NUSSBAUM and FOSTER did not discuss these matters then or later. There was no need to do so since Whitewater was not an important issue at that time. FOSTER was comfortable handling these and other First Family matters and NUSSBAUM was happy that he should do so because that was a set of responsibilities he didn't have to worry about. Whitewater did not get "on the screen" until December, 1993.

NUSSBAUM said that files relating to the First Family personally were turned over to the CLINTON's personal attorney after the death of FOSTER, not because there had been any impropriety occurring, but because they didn't need to be maintained at the White House anymore since those matters were effectively resolved. For instance, the Blind Trust was completed. There was also a heightened sensitivity that wherever possible, personal matters involving the CLINTONS should be handled by their personal attorneys as opposed to White House Counsel. Prior to his death, FOSTER had been working with ROBERT BARNETT, CLINTON's personal attorney, and STEVE NEUWIRTH in order to work towards turning all matters over to BARNETT and transferring them out of the White House Counsel's office.

NUSSBAUM explained that it is difficult to describe to someone who has not been through it how very, very busy they all were. A tax return for the President was considered a relatively minor thing. FOSTER himself never expressed any dismay about any issue that he was working on, whether it was Whitewater or any other personal matters for the First Family. The Travel Office was different. FOSTER did express dismay about that.

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Asked how files were organized, NUSSBAUM explained that when you walk into the White House after inauguration, what you find is a building very much like a completely empty law office; there are no files, there are no people, but the phones are starting to ring. They had to create the Office of Counsel from scratch, with a very limited budget with which to do so. He explained that the White House budget is always artificially low for political reasons. There is an outmoded telephone system and it was some time before they finally started getting organized. Right away, they had to do judicial appointments, had to handle the Travel Office problem and various other subject matter files. NUSSBAUM remembers that there was a "too high" by secretary DEBORAH GORHAM's desk which held FOSTER's files. Those and the files in his office were the only places NUSSBAUM knew FOSTER to keep his papers. NUSSBAUM himself used the one in the back of the reception area. In addition, FOSTER had access to the two safes in NUSSBAUM's office. One was not used much at all and the other one had an FBI report on the Attorney General in it. KENNEDY kept most of the security materials in safes in his office area. NUSSBAUM did not know whether FOSTER stored anything in KENNEDY's safes or not. NUSSBAUM could not recall anything in particular, such as personal First Family business, that FOSTER was storing in the safe in his (NUSSBAUM's) office.

When asked what type of work FOSTER would automatically handle, NUSSBAUM replied that it evolved over time. In the beginning, he handled First Family matters and dealt with HILLARY RODHAM CLINTON a great deal. He worked on setting up the White House Counsel's office and in dealing with Secret Service. NUSSBAUM himself would deal with the President. Asked why he himself got the position of General Counsel and not FOSTER, NUSSBAUM speculated that people perceived he had a broader experience, he was older, he had "played on a bigger stage for a longer period." FOSTER had never been out of Little Rock and also FOSTER did not seem anxious for the job.

NUSSBAUM advised that he and FOSTER met in December of 1992, that FOSTER was actually hired as Deputy Counsel before he himself was appointed to be Counsel to the President. NUSSBAUM described their relationship as a very good one and explained that they became quite close. In describing FOSTER, NUSSBAUM said that he was a remarkable person. He urged the interviewing individuals to read the commencement speech that FOSTER made at his law school graduation in May of 1993 to catch the essence of

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the man. He said FOSTER was highly intelligent, had a strong sense of integrity, was a very hard worker, was not very politically oriented, but a very good lawyer. He characterized him as very strong; like the "Rock of Gibraltar."

The last few weeks before his death, however, FOSTER was noticeably down and blue about the Travel Office situation. The White House had fired a number of people and FOSTER and KENNEDY had been trying to do the right thing in calling the FBI. The press proceeded to be highly critical. The White House received an enormous amount of criticism for what had gone on and that bothered FOSTER a great deal. In May, 1993, JOHN PODESTA and TODD STEARN did a management review report which was critical of the Travel Office handling and on July 2, 1993, White House Chief of Staff MACK MCLARTY and Congressman LEON PANETTA issued a formal reprimand to KENNEDY, DAVID WATKINS, KATHERINE CORNELIUS and a fourth individual NUSSBAUM could not recall. NUSSBAUM said it was not fair because as circumstances fell out, nobody should have been reprimanded. VINCE FOSTER himself was depressed at the unfairness, at the press and at the White House in general. He feared there would be calls for numerous subsequent DOJ and Congressional investigations looking into every action and reaction they had done. NUSSBAUM knew that FOSTER was concerned about all the things that he wrote in the note that was subsequently found on July 26, 1993 which had been torn up in his briefcase. FOSTER was concerned that the White House have proper representation and wanted outside law firms to be hired in order to help the Counsel's office deal with some of these matters.

NUSSBAUM said that especially the last two weeks before he died, FOSTER's tone of voice changed and he just was not functioning the way he normally did. FOSTER "wasn't participating." Normally, NUSSBAUM could depend on him to take the initiative on things and follow through with energy and active judgment. NUSSBAUM said, "I needed him and he just wasn't there." It had been a very busy and difficult month with the nomination process for RUTH BADER-GINZBURG; the firing of former Director of the FBI, WILLIAM SESSIONS, and the subsequent search for a successor; then preparing LOUIS FREEH for nomination. NUSSBAUM said it was a very frustrating time. At the end of June, NUSSBAUM needed FOSTER to be functioning in top form and he appeared to be failing. FOSTER was withdrawing and not taking the initiative with topics and work responsibilities.

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FOSTER appeared afraid that outside influences were going to try to hurt the First Lady and the President. NUSSBAUM told him to take time off because he just wasn't functioning well. FOSTER kept blaming himself for things that were going wrong. NUSSBAUM was of the opinion that he was not just concerned for his own reputation for integrity, but he also had begun to question his ability to protect the First Lady and the President.

NUSSBAUM speculated that people FOSTER may have considered confidantes would have been KENNEDY, MARSHA SCOTT, WEBB HUBBELL and LISA FOSTER.

FOSTER was not used to editorials about him in The Wall Street Journal. NUSSBAUM believes he was the last person at the White House on July 20, 1993 to talk to FOSTER.

Asked to proceed through his recollections of the day July 20, 1993, NUSSBAUM began that that was the day that LOUIS FREEH was announced to be the future Director of the FBI. It was a very hectic morning. NUSSBAUM was not sure whether there had been a 9:00 a.m. staff meeting that morning. He remembers FOSTER as having been very quiet that morning. He asked him if he had had a nice weekend, knowing he had gone away. FOSTER merely said "yes." FREEH and his family came to NUSSBAUM's office where they were re-introduced to FOSTER. Then they all went out into the Rose Garden.

NUSSBAUM was in a very happy, upbeat mood because the nomination process for LOUIS FREEH had gone very well and the ceremony in the Rose Garden had been very positive. The FBI Director was thought by many to be the single most important appointment of all appointments they had done and early returns indicated that public reaction was wonderful. NUSSBAUM felt like it was all coming together. NUSSBAUM recalled that he himself sat in the front row during the ceremony. VINCE FOSTER had been standing off to the side. He believes they walked back to the Counsel's office together. NUSSBAUM went into his office and turned on the television which was showing both the BADER-GINZBURG hearings that were starting that day and the Rose Garden ceremony for FREEH. Both events showed "successes." GINZBURG sounded wonderful and NUSSBAUM was very proud sitting there watching the television, flipping back and forth between the two events. His secretary, BETSY POND, remarked that he was acting

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like he had just won a big trial and that's indeed the way he felt.

FOSTER came into the office and asked "what are you watching?" and he remarked to FOSTER that "it's two home runs, FOSTER. Right over the fence." FOSTER replied, "Oh, yeah. I guess you're right" and gave a small, little smile. NUSSBAUM advised that to this day he does not believe that FOSTER intended to commit suicide at that moment. He does not think that FOSTER was telling him goodbye. NUSSBAUM believes FOSTER went out and an overwhelming depression, chemical in nature, took over and he killed himself.

When NUSSBAUM returned from having lunch, he was looking for FOSTER because he wanted to chat with him. He asked for FOSTER every hour or so and finally convinced himself that he had gone home. NUSSBAUM really wanted to talk with him just to talk with him, not about any particular issue, and so he had FOSTER paged late in the day. He didn't get any response and so he went home. They were all planning on leaving early that day. NUSSBAUM went to dinner with friends and approximately 8:30 or 9:00 p.m., he was called by MARK GEARAN who gave him the news of FOSTER's death. NUSSBAUM was stunned and very upset.

NUSSBAUM told his wife what had occurred and left her at the restaurant. He believes he took a cab to the White House. He found everybody on the ground level, first floor, in the residence. They were waiting for the President who was, at that time, appearing on the LARRY KING show. NUSSBAUM saw MARK GEARAN there. He does not recall seeing KENNEDY or LIVINGSTONE. He somehow was aware that LIVINGSTONE had come back to the White House after awhile after having identified FOSTER's body. MAGGIE WILLIAMS was there. HILLARY CLINTON was in Arkansas at the time. There were many people there that NUSSBAUM could not recall. The President came down after a while and he and MACK MCLARTY were going to go to the FOSTERS' residence. NUSSBAUM chose not to go to the FOSTERS' residence that evening. Instead, he went to his office.

NUSSBAUM does not recall anybody mentioning any kind of note. It occurred to him that it would be a good idea to look for a note. At approximately 10:00 p.m., he went up to his office, entered FOSTER's office and saw PATSY THOMASSON sitting at FOSTER's desk. MAGGIE WILLIAMS was sitting on the couch

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crying. NUSSBAUM stood by FOSTER's desk and looked at the top of the desk. THOMASSON opened a few drawers. They were looking at surfaces. They were looking for something noticeable; not a briefcase and not into anything very deeply. MAGGIE WILLIAMS was "a basketcase." She was not looking for anything.

NUSSBAUM estimates that he was there approximately ten minutes and all three individuals left at the same time. They did not take anything with them. They had not found anything which, on its face, helped to explain FOSTER's death.

NUSSBAUM explained that nobody considered FOSTER's office a crime scene and they never gave any thought to securing FOSTER's office. NUSSBAUM himself was there in his own office that evening for approximately one and one-half hours alone. At one point he saw SYLVIA MATHEWS - not in the Counsel's suite itself, but at the threshold. He thinks he may have also seen GENE SPERLING. SYLVIA suggested getting the trash from the office. Later, somebody, NUSSBAUM could not remember who, brought the trash over to NUSSBAUM when he was standing downstairs. He told them to just leave it in ROY NEEL's office which was nearby. NUSSBAUM advised that he does not remember seeing HOWARD PASTER.

NUSSBAUM spent the time at the White House that night making telephone calls in his office. He was calling people on his staff, not wanting them to get the sad news over the television or radio. His door was open and when he left, he locked up the entire suite, setting the alarm before he left. He went downstairs where there was a gathering of people near NEEL's office. The meeting was not a meeting of substance; people were grieving.

NUSSBAUM advised that at the time there was no conversation or consideration about needing working documents from FOSTER's office which should be removed at that time. NUSSBAUM left the White House and went home.

With regard to personal pieces of mail that FOSTER may have mailed in the days just before his death, FOSTER's secretary, GORHAM, told him that FOSTER had mailed at least one piece of mail to his mother in Arkansas shortly before his death. He learned later that it was just "family stuff." He didn't.

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recall whether he found out about this on July 21st, 22nd, or later.

NUSSBAUM reiterated that on the night of the 20th, he has a vague recollection of seeing CRAIG LIVINGSTONE, but he could be wrong. He knows that LIVINGSTONE had come back to the White House after identifying FOSTER's body. NUSSBAUM doesn't know of any instructions that were given to LIVINGSTONE. If any were given, it would have been BILL KENNEDY who would have done so.

With regard to events on July 21, 1993, NUSSBAUM got a telephone call from LISA FOSTER at approximately 7:00 a.m. She was calm. She was looking for some explanation as to why this would have occurred and she asked NUSSBAUM, "did you fire VINCE yesterday?" The answer, of course, was no, he had not.

NUSSBAUM arrived at the office and went into his own office. He recalls that it was a difficult and very tricky day, with an enormous number of things going on. The press calls to find out what had happened and what was going to happen were constant. Many people did not know yet about FOSTER's death. It was a sad thing and there was no reason to believe there was a connection to anything going on at the White House at that time. Whitewater was unknown. There had been a newspaper article about it a year before during the campaign, but it was not a current issue. FOSTER was depressed about the Travel Office situation. NUSSBAUM admitted to feeling a little bit guilty, thinking that if he had hired outside attorneys as FOSTER had wanted, perhaps it would have made FOSTER feel better and his death would not have occurred.

Shortly after NUSSBAUM arrived at his office, BETSY POND admitted that she had gone into FOSTER's office and straightened papers "to make it neat." She acted as though she were generally in shock. NUSSBAUM told her to stay out of FOSTER's office. There was a staff meeting which was more like a wake than a staff meeting. NUSSBAUM recalls talking to CLIFF SLOAN and STEVEN NEUWIRTH about sealing the office. They brought the subject up. NUSSBAUM thought at the time, why not? He realized that no matter what he did, it would be second guessed. It was too late to actually seal the office. Why seal it at all? It was not a crime scene. But then he considered, what's the right thing to do and decided to seal it. Nobody asked him to do

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it. They called the Secret Service, a guard was put on the door and then at approximately 10:00 p.m., a lock was put on. The following day, he received two keys; one for the Secret Service and another one for himself. He does not recall if DEBORAH GORHAM received a key or not.

Sometime between 9:00 and 10:00 a.m., there was a meeting at DAVID WATKINS' office with the Park Police there. NUSSBAUM took KENNEDY with him. STEPHANOPOULOS was there, perhaps the Secret Service and perhaps BILL BURTON. At the meeting, the Park Police briefed the group as to what had happened so far regarding FOSTER's death. The Park Police said at that time that they wanted to interview people and take a look at FOSTER's office. Meanwhile, the President came up to the Counsel's office and further efforts were made to notify the entire White House staff of what had happened.

At one point during the President's visit to the Counsel's office, NUSSBAUM said he told the Secret Service person standing there (there was no lock on the door at that time), that he was going into FOSTER's office to get a photograph. The photograph he got was the famous kindergarten picture of the President and MCLARTY. The President stayed in NUSSBAUM's office for a little while. It was a very emotional visit. Later, there was a meeting at 2:00 p.m. in the auditorium. MCLARTY, NUSSBAUM and the President spoke to the staff with hastily prepared notes which captured the grief of the moment.

NUSSBAUM advised that it finally became clear to him and others that this death was going to be a very big deal and that they needed to get somebody to coordinate the whole investigation so that it was done right and so that it would only be done once. NUSSBAUM explained that he had the sense that multiple agencies were coming at the White House and something had to be done to put somebody in charge. NUSSBAUM spoke to BURTON about the problems, but he himself was calling the shots. NUSSBAUM decided to call either JANET RENO or PHIL HEYMAN. They agreed to take the lead and to coordinate the investigation but not to take over from the Park Police.

NUSSBAUM had a meeting that afternoon (July 21, 1993) with DAVID MARGOLIS and ROGER ADAMS from Department of Justice to discuss the matter. NUSSBAUM believes the Park Police were there also. Everybody was very cooperative and sympathetic. They

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wanted to interview people regarding FOSTER's state of mind and look at the office to see if there was a note - a suicide note, a blackmail note, something which would explain why FOSTER had taken his life. They were looking to see if anything there confirmed that he committed suicide. Nobody disputed what they were looking for. Everybody understood that they were looking for something which was relatively self-explanatory on its face.

It was late in the afternoon and everybody agreed to do the actual search the following day. They had yet to give notice to the staff that they would be interviewed and let them know that White House Counsel would be present. There were no objections to this. Everybody agreed and everybody agreed that it should be all done the next morning.

With regard to the discussions on July 21 and July 22, 1993 with MARGOLIS and ADAMS, it was understood that the things to be found in FOSTER's office pertained to very sensitive matters. It was like a working lawyer's office. There were lists of nominees. NUSSBAUM did not know all that was in there, but there was "a queasiness" about letting people just walk into the office and read what was there. NUSSBAUM advised that nobody asked for unfettered access to the office, nor did they ask for a specific procedure. There were no fights between the parties. There was a good faith effort to decide how to handle the situation.

With regard to the agreement on July 21, 1993, NUSSBAUM does not remember agreeing to show documents to individuals from the Department of Justice. There were levels of issues, NUSSBAUM explained: clearance issues; privilege issues, both attorney-client privilege and executive privilege. These were unclear things.

On the other hand, NUSSBAUM did not want to say that nobody could go into the office and look at things. That would have made the Department of Justice unhappy and it also would not have looked good. NUSSBAUM believes that he thought up a "brilliant compromise." NUSSBAUM himself would conduct the search in MARGOLIS' and ADAMS' presence.

He discussed the procedure with SLOAN, NEUWIRTH, BURTON and MCLARTY, JACK QUINN and probably BRUCE LINDSEY. These were all people who wanted to do the right thing but were uneasy about

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access. People were preoccupied with their grief. Whitewater never came up as a topic of concern. Nobody checked with HILLARY CLINTON or the President on the issue to NUSSBAUM's knowledge. Nobody intimated that there was anything explosive in FOSTER's office which would be found during a search and should be shielded from law enforcement seeing it. From approximately May 1993 on forward to the time of his death, FOSTER told NUSSBAUM everything that he was working on. NUSSBAUM believes he would have known if there was any explosive issue that FOSTER had been working on.

NUSSBAUM advised that he does not remember speaking to HEYMAN. At some point, he said MARGOLIS had him talk to HEYMAN on the phone. He does not recall HEYMAN saying anything about "making a mistake" or threatening to pull Department of Justice people out of the procedure. He also does not recall telling HEYMAN that he would call him back. He also does not recall suggesting physically obstructing portions of the document but at the same time showing it to Department of Justice individuals. NUSSBAUM concluded that he knew Department of Justice individuals were not happy but felt that it was an adequate compromise that they had reached.

Describing the atmosphere on the day that the search took place, NUSSBAUM said there was not a lot of resistance to how things were being conducted. Occasionally, he showed them something and he created three piles of materials, saying with one of them "you might want to take a look at this." NUSSBAUM stressed that nobody ever asked to see anything that NUSSBAUM said they could not see. The point of the procedure was to identify what items were in the office in the presence of law enforcement. It was not intended to foreclose anybody's ability to look at anything. It was intended to foreclose their ability to be the first to look at it. The three piles were identified as follows: the first was documents that they specifically asked to see. It was a couple of inches thick and it had such things as telephone logs and calendars. SLOAN took custody of these. The second one was made up of FOSTER's personal documents. It was fairly large, perhaps filled a box. The third was White House documents, many of which stayed in the drawers that they were originally located in.

The whole point of the thing was to satisfy everybody that there was no note; no obvious reason explaining FOSTER's

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death. NUSSBAUM said he had a vague recollection; he sort of remembers maybe MARGOLIS said something about "why don't you just mail us results?" He speculated that such a remark would have had a kidding edge to it. NUSSBAUM denied saying at any time that they were just doing it "for show." (A brief discussion between NUSSBAUM and interviewing agents followed concerning the difference between the phrase "to show" and "for show" and the possibility that perhaps MARGOLIS had misheard a comment NUSSBAUM made.)

NUSSBAUM stated that it was not clear that the Department of Justice and Park Police were really unhappy. Certainly, if they had had their choice, they would have looked at everything personally.

With regard to whether or not there were black binders located in FOSTER's office, NUSSBAUM replied "yes." The binders held a list of people who might be nominees for highly qualified positions, such as the Supreme Court. These binders were considered highly confidential. NUSSBAUM said he had a set of them in his office also.

With regard to FOSTER's briefcase, NUSSBAUM said that when he emptied it during the search, he was standing at FOSTER's desk. He pulled out the contents and found them to be files concerning the Travel Office, FOSTER's notebook and a copy of the Management Review Report on the Travel Office matter. These items stayed in the Counsel's office. NUSSBAUM put the briefcase against the back wall behind the desk. He felt, perhaps glanced into it, but felt that it was empty. He does not remember picking it up; he doesn't remember seeing anything inside it. It is his belief that the torn up note was in there then, he just didn't see it. The pieces of note being there is "not inconsistent" with what he remembers.

In all, after the search was conducted, a box was given to CLINTON's personal attorney (FNU) SPAFFORD, and a redwell for SLOAN filled with items that law enforcement authorities wished to see at a later date. NUSSBAUM determined that the CLINTONS' personal files, such as tax return and investment information, should be transferred to the CLINTONS' personal attorney. He called MAGGIE WILLIAMS and told her to come get CLINTON's personal files. This was at approximately 5:00 p.m. on July 22, 1993. These items were located in the cabinet on the left side

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of the room and he said to her "you take those." He pulled them out and boxed them. TOM CASTLETON helped MAGGIE WILLIAMS carry the items to the residence portion of the White House on July 22, 1993. No other documents were put into that box thereafter. The box included the "famous Whitewater file" and was later picked up by BARNETT on July 27, 1993. To NUSSBAUM's knowledge, there were no other CLINTON personal files left in FOSTER's office as of that time.

The purpose of NEUWIRTH's inventory on July 26, 1993 was to identify what other documents were in FOSTER's office that needed to be worked on so they could be distributed to appropriate individuals for continuing action. NUSSBAUM took the Travel Office materials to his own office. He gave Usher and Residence and Redecoration Contributor issues to STEVE NEUWIRTH. BETH NOLAN received Ethics issues at a slightly later date. CLIFF SLOAN received Constitution, Legal and Privilege issues to work on. Other matters remained in FOSTER's office later to be boxed up and the boxes just sat there.

The evening of July 22, 1993, FOSTER's office was locked up at the close of the day. On Friday, most everybody was at the funeral in Little Rock and as far as NUSSBAUM knows, there was nobody in on the weekend.

On Monday, July 26, 1993, NUSSBAUM doesn't remember who opened the office. It was open when he got there in the morning. NUSSBAUM advised that the point of the inventory he asked NEUWIRTH to do was to determine what papers remained in FOSTER's office. Neither the search on July 22, 1993, nor the inventory on July 26, 1993, had been done primarily for law enforcement purposes and he stressed that even though MARGOLIS and HEYMAN subsequently appeared to be very angry about how things had been conducted, the fact remains that nobody from the Department of Justice ever asked for anything, either at the time of the search or subsequently that they have not seen. Even after the torn up note was found, there were no requests for the item. NUSSBAUM also does not remember anybody asking about looking into any areas outside of FOSTER's office. NUSSBAUM himself checked the only safe that was ever used in his own office to see if FOSTER had placed anything in the safe that would be relevant. He did not find anything. He forgot about the filing cabinet outside of his office and in front of DEBORAH GORHAM's desk and so did not search that.

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NUSSBAUM speculated with regard to the torn up note that LISA FOSTER probably has the best theory as to where that came from. She had told VINCE FOSTER to write down what was bothering him. He is the kind of person who makes lists. He thinks that the torn up note had been written a week or so prior to his death and then torn up and thrown in the briefcase. NUSSBAUM was aware that FOSTER had consulted a lawyer approximately a week before his death (he understood that lawyer to be JIM HAMILTON) regarding possible upcoming hearings on the Travel Office matter.

On the afternoon of July 26, 1993, NUSSBAUM remembers walking into his office and NEUWIRTH was piecing together a note. He remembers doing three things then. He went to MACK MCLARTY's office, forgetting he was in Chicago, and so instead told BILL BURTON of the note. Secondly, he went into HILLARY CLINTON's office. She was there and he told her "we found something." HILLARY got up and the two of them went into NUSSBAUM's office and looked at the note. He recalled her saying "I cannot deal with this. . . . Do whatever is right." She was shocked by the whole thing and said essentially "you deal with it" and she turned around and walked out. Thirdly, he reached MCLARTY and GERGEN in Chicago. He described the contents of the note. He did not talk to President CLINTON. He called JIM HAMILTON and HAMILTON told NUSSBAUM that LISA FOSTER was coming to Washington, D.C. the next day. He then decided that they would turn over the note to law enforcement but not until the President and LISA FOSTER had seen it first. NUSSBAUM did not want them to see it for the first time on the news. NUSSBAUM said that if the note had been found on July 22, 1993, it would have been turned over to law enforcement right away, but that was not the case as of July 26, 1993 and it seemed prudent to wait the extra day.

NUSSBAUM explained that he copied the text of the note onto another piece of paper and stuck it, along with the pieces of paper into an envelope and put it in the safe. He does not remember if he told DEBORAH GORHAM not to touch it or not to read it. It was a letter-sized envelope, holding a single piece of paper with the transcription on it separate from the pieces of torn up note. He had decided not to try to tape the note pieces together. He does not remember handling it again until July 27, 1993 when he pulled it out to show to LISA and JIM HAMILTON. He does not think anybody else saw it. He said he may have put it

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in a drawer instead of the safe and he gave LISA FOSTER a transcription of the note, but not the pieces of note itself.

NUSSBAUM does not remember if NEUWIRTH had the briefcase with him when he came into his office. He does not think anything else was in the briefcase but he did not look into it.

NUSSBAUM noted that President CLINTON did not want to deal with the note either. NUSSBAUM called either JANET RENO or PHIL HEYMAN before even talking with President CLINTON. JANET RENO was irritated but then calmed down quickly. They both came over to the White House. PHIL HEYMAN called the Park Police to come pick up the note. When asked if he recalls the note at one point dropping and scattering, NUSSBAUM did not recall such a happening.

With regard to a complaint by COLLIER regarding the course of the investigation and the treatment of the Park Police, NUSSBAUM retorted that after the note had been found, everybody was afraid that they would be criticized for not having found the note during the inventory. NUSSBAUM knew there had been a conversation between COLLIER and someone and subsequently JANET RENO initiated a couple of investigations. PHIL HEYMAN now is touchy as to appearances and doesn't want anybody from the White House to sit in on any interviews.

On either July 21st or July 22, 1993, NUSSBAUM could not recall which date, he remembers that MARGOLIS and ADAMS were kept waiting for a fairly substantial period of time. He explains that this was because NUSSBAUM was having to do "a million things," including speaking to MCLARTY about what they were doing and why they were doing it. MCLARTY was keeping in touch with the President as a matter of course. He does not know if the President or HILLARY were consulted as to what was going to be done with the investigation and with FOSTER's office. He knows he himself did not talk to either of those individuals. NUSSBAUM also stated that no one attempted to stop him from conducting things the way he was doing it.

NUSSBAUM was shown a production of materials from BARNETT, former personal attorney to the CLINTONS, that was allegedly papers from FOSTER's office. NUSSBAUM could not remember specific documents but thought that those were, indeed,

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the documents that were given to SPAFFORD at the time of the search. The further he proceeded into the production, the more sure he was that those were, indeed, the documents; especially when he began to find tax returns at the bottom of the pile.

With regard to the rumors of an affair between HILLARY CLINTON and FOSTER, he said that he was aware that there were rumors and that he and FOSTER had talked about smears on their character. In his opinion, there was no substance to the rumors; certainly not during the time period that they worked together at the White House.

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