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By slp Date 11/4/2029

NW 25720 ND 37918

The Washington Post

DATE: 7-20-98PAGE: A-1

One Death Altered Path of Presidency

Five Years Later, Clinton White House Still Facing Aftermath of Foster Suicide

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After a cheeseburger lunch at his desk, Vincent W. Foster Jr. left his office around 1 p.m., saying he would be back. Five hours later, his lifeless body was found next to a Civil War cannon in a Virginia park. As his compatriots at the White House struggled to absorb the shock, one senior official told a colleague, "I don't know that it'll ever be the same after this."

Few statements have been so prescient. Five years ago today, the man who grew up with President Clinton and practiced law with Hillary Rodham Clinton drove across the Potomac River, shot himself at Fort Marcy Park and ultimately altered the course of a presidency.

What was certainly a personal tragedy for his friends and family became a defining event for a young administration, one that robbed any remaining innocence from the fresh-faced crew that had arrived in Washington brimming with optimism just six months earlier, one that permanently colored how the nation's leader looks at its capital and its culture, and one that spawned an enduring climate of suspicion and a cottage industry of conspiracy theories.

Even now, five years removed, the aftermath of Vince Foster's suicide continues to ripple through the Clinton White House, whether it be a new book examining the events surrounding his death or a ruling by the Supreme Court just a few weeks ago setting a national precedent on the bounds of attorney-client privilege.

"It was a deep cut," said Thomas F. "Mack" McLarty, the former White House chief of staff who grew up in Hope, Ark., with Clinton and Foster. "It clearly had a tremendous impact."

Just how tremendous would be hard to overestimate. Foster became

a symbol of the travails of the Arkansas circle around the Clintons. He became a cult figure among some of the same people obsessed by the John F. Kennedy assassination and Roswell UFOs. But there are those looking back now who believe that had Foster lived, the story of the Clinton presidency would have been different in tangible ways—albeit for vastly divergent reasons.

"I thought his death changed history in some respects," Bernard Nussbaum, who was White House counsel and Foster's immediate boss at the time, said in an interview last week.

In the months after Foster died, as the controversy over Whitewater bloomed into a full-fledged Washington scandal, Nussbaum was the lone voice in the upper ranks of the White House resisting the call for the appointment of a special prosecutor, arguing that it would lead to a never-ending search for crimes where they did not exist.

Nussbaum lost the fight. Clinton reluctantly agreed to an investigation into his real estate dealings back in Arkansas, leading to the appointment of special counsel Robert B. Fiske Jr. and his successor, independent counsel Kenneth W. Starr, and the resulting years of subpoenas, indictments and court battles that touched on everything from FBI files to Foster's death to Clinton's alleged sexual adventures.

"If Vince had been around to support that position, if I hadn't been the only one among his senior aides to take that position, he would have had a big impact," Nussbaum said. "I really believe if Vince had lived, the president would not have sought the appointment of an independent counsel, and history would have been different."

A former investigator who looked into many of those issues has reached the same conclusion from another vantage point.

The way the White House seemed to frustrate the Justice Department and others investigating Foster's death and the belated revelation that he had worked on Whitewater matters for the Clintons while in the White House—described by a subsequent Senate report as a "pattern of stonewalling"—generated a brush fire of speculation that there must be something the Clintons were hiding.

"I don't think the suicide per se was the significant thing," said the investigator, who declined to be identified for fear it might affect his current business. "I think the handling of the Department of Justice by the White House counsel's office in the days after the suicide ignited Whitewater. Had that not happened, the whole thing might never have triggered all the interest in Congress and ultimately the independent counsel."

Foster came to Washington after the 1992 election with no experience

in the hothouse world of national politics. A tall, slender lawyer known for his handsome face and gracious though reserved manner, Foster was a lifelong friend of the president, but really was closer to Hillary Clinton, who playfully called him "Vincenzo" and palled around with him and their fellow partner at Little Rock's Rose Law Firm, Webster L. Hubbell, who would join them in Washington as associate attorney general.

Foster's six months as deputy White House counsel were marked by unaccustomed controversy—failed nominations for attorney general, challenges to the secrecy of the first lady's health care task force and, finally, the travel office affair in which longtime employees were fired while business was steered to the president's allies.

He took the criticism far more seriously than many and in words that effectively became his epitaph, he wrote in a note found ripped up after his death that while neither he nor anyone in the White House violated any law, "the public will never believe the innocence of the Clintons and their loyal staff... I was not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport."

His reaction to that had no parallel in modern U.S. history. Foster was the first person at the top echelon of government to kill himself since James V. Forrestal committed suicide in 1949 shortly after being replaced as defense secretary. And the bitter sentiment of Foster's note struck a nerve in a highly political, fiercely partisan city.

"His death, I think, really made people think," said William Kennedy, another Rose partner who served as associate White House counsel but returned to Little Rock after an unhappy time in the capital. "And I think it was one of those events that for once made people in Washington stop and seriously examine what they were doing—how they approach things, what their values were, what they should be doing. And from that perspective, it was a sea change. It did force that reexamination."

Kennedy paused as he thought about this. "But," he added, "and I say this with a great deal of sadness, nothing seems to have changed."

The president appears to share that judgment. It was after Foster's suicide that he began talking about the poisonous atmosphere in Washington, a recurring theme for the last five years and the main thing he said at his second inauguration in 1997 that he wanted to cure.

As recently as this weekend, while not mentioning Foster, Clinton on a trip home to Little Rock referred to Washington as "a completely different culture."

"There are times when I wake up in our nation's capital, and I deal with people day in and day out, and they say one thing one day, and then the next day they're trying to basically say that I'm the worst thing since Joe Stalin," Clinton said.

But even in the midst of his latest controversy, the investigation into his ties with Monica S. Lewinsky, Clinton assured his fellow Arkansans that he will survive. "I mean, I don't know what you all expected," he said Saturday night at a fundraiser. "Did you think they'd wheel me in here in a gurney tonight? Listen, you prepared me well. This is no big deal."

Some aides said the Foster suicide did have some salutary effects within the White House. It served, they said, as a wake-up call highlighting the importance of balancing a workaholic schedule with personal life.

"Even considering how pressurized and intense the work is here," said presidential counselor Douglas B. Sosnik. "This is a very family friendly workplace in which we're constantly reminded of what's most important in your life, which is your family."



Perhaps the chief irony of Foster's death is that a man who so hated the spotlight will forever be remembered by some as the center of a bizarre conspiracy in the mode of the JFK killing.

No matter that every investigation that has looked at the case—including the Park Police, two congressional inquiries, Fiske and, finally last year, Starr—came to the same, unequivocal conclusion that Foster died at his own hand in Fort Marcy Park. There will always be people convinced that Foster was murdered in a safe house in Northern Virginia. That his body was rolled up in a carpet and moved to the park. That he had been involved in a CIA-sponsored drug-smuggling operation.

In retrospect, according to some people close to him and the White House, the fuel for that fire resulted from the confluence of three factors—speculation about Foster's relationship with Hillary Clinton, the Whitewater connection and the seemingly hurried initial investigation hindered by White House-erected obstacles.

The White House search of Foster's office the night of his death continues to cause mystery. During the formal search two days later, Nussbaum insisted on looking through all the papers himself, contrary to an earlier agreement, while angry Justice Department and police investigators looked on and were shown only what the White House counsel deemed relevant.

The White House did not disclose the discovery of the torn-up note until days later, after notifying Foster's family. Five months later, the White House acknowledged that Foster had a file on Whitewater. Two years after his death, the White House produced handwritten notes in which Foster wrote that Whitewater was "a can of worms you shouldn't open." In January 1996, the White House discovered and turned over Hillary Clinton's long-missing Rose firm billing records that Foster had reviewed during the 1992 campaign.

Nussbaum remains convinced he made the right decision to protect sensitive White House documents and personal papers unrelated to Foster's death. "If I make a mistake, I have a history of admitting a mistake," he said. "But what happened there was the right way . . . for a lawyer to act in that circumstance. The only regret I have is not talking more publicly, defending myself more publicly."

But critics said the incident provided the first major example of what would become a Clinton White House habit of exacerbating political and legal trouble by not being as forthcoming as it should.

"Every single incident since Vince Foster, the same issues keep coming up," said Robert J. Giuffra Jr., who was chief counsel to the special Senate Whitewater committee. "History keeps repeating itself. . . . Many of the same things they're being criticized for in the Lewinsky matter are things they were criticized for in the handling of Foster's office."

Only last month, what may be the last of the legal issues arising from Foster's death was resolved. Starr tried to subpoena three pages of notes taken by a lawyer Foster consulted nine days before killing himself. But the attorney, James Hamilton, persuaded the Supreme Court that attorney-client privilege persists after a client's death, setting a binding precedent that will have major impact on the legal profession across the country. That was an unforeseen legacy that Foster, the lawyer's lawyer, would have liked.

Others around Foster have moved on. His wife, Lisa, moved back to Arkansas and married a federal judge, James M. Moody. His oldest son has become an investment banker, his youngest just graduated from college. Last month, his alma mater, the University of Arkansas law school, created a professorship in his name.

The Clintons, too, have gone on. They do not talk about Foster often, according to their friends, but they probably think about him.

"This is just an ache in their heart that will just never go away," said Diane Blair, a close confi-

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dante of Hillary Clinton from Arkansas. "It's certainly obvious that it was a horrible, horrible personal tragedy for the Clintons to be a friend, to feel in some ways responsible. Who could go through that and not ask, 'What if? What if I didn't ask them to come to Washington?' How could that not affect you?"

FOR MORE INFORMATION 
To read the independent counsel report on Foster's death, click on the above symbol on the front page of The Post's Web site at www.washingtonpost.com.

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The Foster Chronology

1993
January: Vincent W. Foster Jr., 48, a friend of President Clinton since childhood, also from Hope, Ark., and once a partner of Hillary Rodham Clinton at the Rose Law Firm, comes to Washington from Little Rock to become deputy White House counsel.
May 19: Seven employees in the White House travel office are fired for "gross mismanagement." But after accusations that it sought to transfer the business to Clinton friends, the White House soon recants most of its criticisms.
July 2: The White House issues a report on the travel office, written

SOURCE: Staff and wire reports



Foster

by outside auditors. Although the report does not criticize Foster directly, it says his office could have averted the incident but failed to do so.
July 19: Clinton invites Foster and his wife to the White House to watch a movie. Foster declines.
July 20: U.S. Park Police discover Foster's body at Fort Marcy Park in McLean at 6 p.m..

dead of a single gunshot wound, and make a first report to the White House at 9:10 p.m., calling the death an apparent suicide. White House staff look for a suicide note in his office.

July 22: Foster's office is searched in the presence of his family and officials from the Park Police, Justice Department, FBI and Secret Service. Initially, the White House claims that no suicide note or other document bearing on his death is found.

July 23: Foster is buried in Hope. The autopsy confirms he died of a gunshot wound to the head and the findings are consistent with a



Fiske

suicide, the Park Police report.
July 28: The White House discloses that in the previous week an unidentified aide discovered undated, torn-up notes inside Foster's briefcase. His notes, found July 26, include a list of psychiatrists and an "argument with himself." They are given to investigators after a 30-hour delay.

The time lag later fuels speculation of a conspiracy and coverup.

1994
Jan. 20: Attorney General Janet Reno appoints Robert B. Fiske to investigate the Clintons' role in the Whitewater real estate venture and their ties to the failed Madison Guaranty Savings and Loan. Fiske announces he will also explore a possible link between Foster's death and his knowledge of the Whitewater scandal.

July 1: Fiske releases his report on Foster's death, reaffirming the Park Police report, ruling it a suicide and finding no evidence of foul play.



D'Amato

July 29: The Senate Banking Committee, led by Alfonse M. D'Amato (R-N.Y.), examines Foster's death, focusing on testimony from Park Police officers.
Aug. 5: Kenneth W. Starr, a Republican and former U.S. solicitor general and federal judge, is appointed independent counsel by a three-

judge panel, replacing Fiske. Starr continues the Whitewater and Madison probes, and reopens the Foster investigation.

1995
July 18: The Senate Whitewater committee, also headed by D'Amato, begins holding hearings on Foster's death. Its June 1996 majority report accuses the White House of hindering the Foster investigation but accepts the suicide finding.

1997
Oct. 10: Starr's three-year investigation of Foster's death concludes, reaffirming earlier findings of suicide.



Starr

1998
March 30: The Supreme Court delays Starr's efforts to obtain notes taken by Foster's lawyer that may clarify the first lady's role in the travel office affair.
June 25: The Supreme Court rules against Starr on the Foster notes, asserting that attorney-client privilege remains in force even after death.
- Nathan Abse