

MEMORANDUM

Date: December 9-29, 1994
From: Miguel Rodriguez *MR3*
To: File
Subject: November 29, 1994 Meeting Concerning Foster
Death Matter And Supplemental Investigation
Prior to Grand Jury

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Present for this meeting were Mark Tuohey, Brett Kavanaugh, Jeff Greene and me. The meeting was convened to discuss my review of the Foster death materials.

I began by citing my earlier memorandum indicating independent review observations, in summary. I explained that (1) the Fiske counsel report conclusions are not fully supported by the existing record and that the report contains misstatements and supposed facts that are inconsistent with the record; (2) there is not "overwhelming" evidence in the existing record to support voluntary discharge of the weapon in suicide or to support that VF was alone the afternoon of his death; and, (3) there is not "overwhelming" evidence to support the report's conclusions regarding motivation for suicide. Before any discussion, Tuohey disagreed.

I.

Regarding motivation, generally, I pointed out that numerous "state of mind" issues are inconsistent with suicide.

First, VF did not intimate suicide and facts indicate VF was not intent on fatally harming himself; indeed, VF indicated to a number of individuals that he was optimistic about work-related events to come and that he was planning future family events.

Second, the gravity of VF's apparent involvement in the travel office and usher matters did not indicate VF was in a dire predicament. The spirit of writing about the travel office, indicated Lisa Foster (LF), was optimistic and an effort to prepare for an offensive stance, *i.e.* that VF did not commit impropriety regarding the travel office. Moreover, I pointed out that those persons working closest to VF on the travel office matter indicated that VF was not obsessed with the matter. White House staffers Neel and Nolan declared that it was out of VF's hands. VF was not implicated in the travel office matter (or even the usher matter); the magnitude of the matters was, at worst, ethical violations by Clinton administration officials and

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supposedly embezzlement by non-Clinton administration officials. Others conducted the review of the travel office matter -- GAO and (internally by) McLarty and Panetta;¹ the matters had been out of VF's hands for at least four weeks; and, to the extent VF

¹The travel office matter involved the firing of seven career White House personnel for supposed mismanagement and embezzlement. This impropriety was "revealed" by Clinton's cousin who was "planted" in the travel office. This cousin was later put in charge of the travel office.

The White House and then the GAO issued separate reports on the travel office matter. News reports pointed out issues presented by the separate reports.

First, the GAO concluded that no laws were violated but certain conduct created "appearances" of impropriety and conflicts of interest. Can such appearances be gleaned from the White House review? For example, on the afternoon of Thursday, May 13, 1993 "[HRC] told [VF] that she heard about problems in the travel office." The GAO report did not mention HRC's conversation and provided no insight into HRC's source for these complaints. On the same day, HRC also asked McLarty "about the situation in the travel office." The GAO report ignored this discussion as well. Again, on May 13, 1993, "[VF] subsequently informed [HRC] that Peat Marwick was going to conduct a review of the [travel office matter]." The GAO report provided no information about this conversation either.

Second, the GAO's report stated WK - who initiated contact with the FBI concerning the travel office matter - told the FBI "that the matter was 'directed at the highest levels' in the White House." It remains unclear what Kennedy meant?

Third, the White House review described the firing of the travel office employees "as a result of a review conducted as part of the Vice President's National Performance Review." That is also the claimed reason the White House hired Peat Marwick to audit the office. However, the GAO report states "[a] representative of the Vice President's office informed us [GAO] that . . . [the audit] was not conducted under the auspices of the NPR."

And fourth, Peat Marwick began its audit on May 14, 1993. This is the same day HRC reportedly "urged that action be taken to get 'our people' into the travel office."

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was upset, he was upset regarding William Kennedy's (WK) reprimand (as indicated in the internal McLarty/Panetta report). These facts were not pointed out by Fiske counsel.²

Third, I pointed out that there were additional matters on VF's mind that indicated VF's ability to cope with variables and stress, which matters were not addressed by Fiske counsel. These matters may not be disputed and at least include: (1) the blind trust; (2) the 1992 taxes, which taxes involved Whitewater concerns; (3) VF's wife, recently in Washington, D.C.; (4) the FBI's director was being replaced (after the FBI had not been accommodating to the White House on the travel office investigation); (5) new personnel in the counsel's office (Sloan and Castleton); (6) VF's weekend with Hubbell; (7) VF's visiting sister; and (8) financial concerns,³ which concerns were demonstrated by VF's special authorization of release of financial statements, every Friday, to LF via VF's secretary.

²Fiske counsel also failed to consider: (1) the travel office matter involved David Watkin's (DW) staff and, specifically, Patsy Thomasson (PT); (2) the usher matter involved HRC and her staff, including Maggie Williams (MW); (3) both matters involved allegations concerning loosely managed money (the travel office from the press corp. and the usher's office from private donations); (4) money was allegedly mishandled in both matters resulting in controversy; (5) the legal counsel's office was called into each matter; (6) while VF was doing damage control on the travel office matter and usher matter, he learned certain facts (and possibly improprieties); (7) VF was involved in assessing the White House's actions; (8) VF was found dead; (9) PT and MW are in VF's office searching the evening of VF's death; and (10) DW requests PT to search and MW goes to the White House and searches after speaking with HRC. Against this background, the torn paper makes a distinction between the Clinton Administration's loyal staff and others. Also against this background, there are allegations that the Clintons received cash prior to moving to Washington, D.C. through Madison Guarantee -- closed due to loosely managed money.

³VF's secretary (Deborah Gorham) was "absolutely" certain VF had no financial difficulty. According to Gorham, the financial statement request was made merely because the Foster family checking account in Washington, D.C. was overdrawn. If such witnesses are correct about the Foster's not having financial trouble, VF's financial concerns may instead be his desire to monitor his account to ensure that, for example, no mysterious deposits (or withdrawals) were made or merely to ensure the Washington, D.C. account was not overdrawn again.

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Fourth, apparently on VF's mind were private conversations VF had, at length, with two blonde females (Marsha Scott and Susan Thomases) prior to VF's death. Neither female can recall details of her conversation with VF. Neither female, however, indicated that her conversation with VF caused VF dire concern. Although Fiske counsel identified that such conversations occurred, no probe of the conversations was conducted. Thomases claimed attorney client privilege regarding her conversations with VF. I have advocated, however, that she has no such privilege and/or VF had no such privilege. I strongly recommended further exploration on her (and Robert Lyon's) dealings with VF and the privilege issues.

And fifth, on the day of VF's death -- in Arkansas -- the search warrant for Hale's office was executed. However, while VF's Rolodex contained Hale's telephone number, there is no indication that VF knew of the search or that VF was preoccupied by events concerning investigation of Hale. Later in Arkansas, reportedly, documents VF had worked on were removed from Rose law firm storage and were destroyed.

II.

In addition to "state-of-mind" inconsistencies, I reminded Tuohey that several issues -- VF's 1 1/2 days off the previous week, VF's weekend association with Hubbell (contrasted to the account by LF), VF's conversation with WJC and Lyons, and VF's concern for media attention in connection with the taxes (Whitewater) -- remained.

In addition, telephone logs from the counsel's office are incomplete. Betsy Pond, Nussbaum's secretary, said VF may have had a private phone line. Even if VF did not have a private line, was there more than one line into VF's office? Only one line, to date, has been investigated. Fiske counsel did not follow through in its investigation of these issues.

Tuohey agreed with my decision to investigate these issues but cautioned that no one in Little Rock and none of the Foster family members were to be contacted until he was further briefed on areas.

III.

I pointed out that little is known about VF's final week of activity involving WJC, Hubbell, Scott, Thomases, and Lyons. Regarding these individuals, I had pointed out the following.

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Sunday and prior July 18, 1993	Monday July 19, 1993	Tuesday July 20, 1993	Wednesday July 21, 1993
<p>-VF took 1 1/2 days off during this prior week.</p> <p>-During prior week, VF had met with Thomases (HRC's lawyer) at her hotel room and again for lunch with "friends."</p>	<p>-VF's office contained personal Clinton family documents including 1992 tax documents and Whitewater documents.</p>	<p>-No one admits to know what work related tasks VF did in morning or what he was to do in afternoon.</p> <p>-VF death</p> <p>-Thomases seen in VF's office searching</p>	<p>-Lyons came to Washington, D.C. supposedly to discuss with VF only travel office matters.</p>
<p>-VF took weekend vacation with Hubbell in attendance.</p>	<p>-VF had been working on Whitewater issues with Riki Seidman and with a paralegal (VF is concerned about tax related media attention says paralegal).</p>	<p>-Scott in White House the late evening.</p>	
<p>-Upon return on Sunday, VF has conversation with Lyons and conversation with WJC.</p> <p>-While VF is not implicated in the travel office matter or the Usher matter, VF is fully involved in the 1992 tax matter (involving Whitewater), which taxes must be filed imminently.</p> <p>-Lyons is not involved in the travel office matter but is fully involved in the tax matter.</p> <p>-Lyons and Foster agree to meet on Wednesday, July 21, 1993.</p>	<p>-VF meets with Scott for a long private discussion.</p> <p>-Hubbell is with WJC at White House and they call VF, supposedly only to invite him to watch a movie and not to discuss pending matters.</p> <p>-Pending matters undisputedly include taxes, blind trust, and weekend.</p> <p>-O'Neil sees Susan Thomases in VF's office on the night of death.</p>		

Also, I reminded Tuohey that it seemed odd that WJC and Hubbell called for VF to come over on the eve before VF's death. Neither WJC nor Hubbell can recall details (except as to the movie invitation).⁴

⁴Ironically, the proposed movie was "In The Line of Fire," which movie involved a person's loyalty to the Office of the President and the person's willingness to sacrifice his life for the President. Also ironic is that VF's corpse was found under a cannon's line of fire.

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IV.

I raised other issues occurring in the period before VF's death, and particularly Monday, July 19, 1993 (the day after VF and LF supposedly returned from vacation).

Specifically, I pointed out that cancelled checks indicate a home security system payment, medical lab report payment, radiology center payment and pediatric center payment, all within four weeks of VF's death. Tuohey acknowledged the need to investigate these expenses and a Kinko expense. Regarding the "Kinko" expense, I pointed out that, sometime on July 19, 1993, LF wrote a check to "Kinko's" for approximately \$19.00. What was being copied (or purchased)? Did the Fosters leave documents to be reproduced over the weekend? None of these expenditures were explored by Fiske counsel.

I pointed out that the credit card receipts indicated that the Fosters checked out on Monday, July 19, 1993, and not Sunday. I will investigate this issue as well as the telephone records at the lodging. Moreover, some of VF's credit cards and other papers in his wallet have never been investigated. VF's wallet was returned to the legal counsel's office on the night VF died. See infra.

V.

Regarding the period before VF's death, I posed the following question: how did VF acquire the unidentified loaded weapon?

First, there was no definitive evidence that the bullets or weapon found at the death scene were linked to VF prior to July 20, 1993 -- the day of VF's death.

Second, I pointed out that on the day of VF's death, once VF left his residence, he was not observed to return. Thus, assuming VF's possession of the weapon on the 20th was voluntary and purposeful, VF either took it with him to the White House (carrying it from his residence on his person or in his car) or he acquired it after leaving the White House at 1:10 p.m. (acquired it from somewhere outside of his residence). At the present time, there is no evidence to believe there was another residence or area VF maintained. If VF did not go at 1:10 p.m. to a private place where he stored the weapon and his possession of the weapon was voluntary and purposeful, then VF must have had the loaded weapon on his person at the White House or it was unattended in his vehicle at the White House.

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Third, even if VF was voluntarily and purposely carrying the loaded unidentified weapon on the day of his death, his motivation necessitating carrying a loaded weapon is unclear. In this regard, there is presently insufficient evidence of VF's intentions when he left his residence. On one hand, VF said no goodbyes and VF was not described to be morose or otherwise fatalistic when he departed family members. The lack of unusual behavior by VF is consistently reported by legal counsel staff in interview "notes" made by USPP. See infra. On the other hand, there is a lot of, apparently surprising, after the fact "state-of-mind" rhetoric from some friends and family that VF was mentally disturbed. Prior to VF's death, however, there is no direct non-testimonial evidence (medical/psychiatric reports of treatment⁵ or even consultation⁶) for such a mental imbalance. Despite the after the fact rhetoric, VF is described by friends and family as the last anyone could imagine committing suicide and as a virtual well-spring of strength.

And fourth, as previously stated, while the weapon found at death has not been conclusively identified as belonging to VF or even the Foster family, VF did have a weapon -- his own weapon -- in his Washington, D.C. home. Fiske counsel did not determine if VF's weapon, found in the Foster's Washington, D.C. home, was registered. We then discussed the following questions:

⁵According to VF's sister, VF was very anxious and concerned about his security clearance. In this regard, VF's sister stated that she tried to persuade VF to speak with a psychiatrist about job related anxiety. VF reportedly told his sister that he was concerned about revealing confidential information, placing the psychiatrist in jeopardy, and VF leaving a trail to medical help. Despite these concerns, VF supposedly accepted from his sister three psychiatrist names and telephone numbers. Also, despite VF's concerns about being linked to psychiatrists, VF apparently wrote the names and telephone numbers onto White House stationery and then loosely carried this writing in his daughter's car or in his wallet. See infra. And, despite VF's concerns about being linked to psychiatric help, each psychiatrist was demonstrably called from VF's office, which calls were boldly billed to VF's home phone number. Oddly, VF never personally spoke to any psychiatrist. Also oddly, VF billed the calls to his home phone instead of using his home phone telephone card (which he carried in his wallet) or a pay phone. Thus, in spite of VF's reported concerns, VF left a clear trail to each of the psychiatrists, while never speaking to any one psychiatrist.

⁶The Foster family physician reportedly spoke with VF the night before his death and prescribed medication for supposed depression; VF reportedly described himself to the doctor as anxious and as not being able to sleep.

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(1) why would VF "surepticiously" get an unidentified gun (and where could he get two bullets only) to commit an "obvious" act of suicide when VF had his own weapon at his bedside, and (2) whose weapon did VF possess in his hand upon his death?

In sum, at the present time, there is insufficient evidence to conclude (1) how VF acquired the unidentified loaded weapon -- assuming his possession of it was voluntary and purposeful; and (2) it is not possible to conclude when, or why VF came to possess the loaded unidentified weapon. Against this background, I pointed out that it was odd that David Watkins and Bruce Lindsay, each upon receiving notice of VF's death (independent from the other), immediately inquired if the weapon was identified.⁷ LF, upon notification, oddly immediately asked if the gun was placed in his mouth (as if this were a signal to her of some kind). LF was described as angry upon notification.

VI.

I next addressed the manner of VF's death. In doing so, I disputed that the weapon found in VF's hand was discharged from VF's hand.⁸ Arguendo, I also disputed how the weapon was discharged: voluntarily or discharged in some other manner.

I pointed out that for voluntary discharge, according to how the weapon was found, VF must have held the weapon in a peculiar backwards position. Also, VF must have held the weapon in a manner that caused (along his index finger and thumb/finger webbing) an unusual amount of gun powder residue.

⁷I speculated that if Watkins and Lindsay were already aware VF had died and the manner of death (or the location of death assuming suicide) was the object of a cover-up, Watkins and Lindsay would be waiting for confirmation that an unidentified weapon was located and planted.

⁸On one hand, of the first two individuals to see the corpse, neither W5 nor Fornshill saw a weapon in VF's right hand. Fornshill was the 1st response person to the corpse. On the other hand, Hall, the 2nd response person, glanced at what he thought was a gun but Hall could not describe it. Gonzales, the 3rd response person to the corpse, only saw what he believed to be the cylinder of a gun and disputed the photographs supposedly representing VF's arm position and the location of the gun in VF's hand. Gonzales did not describe the cylinder until he had seen a picture, thereafter he said it appeared to be a revolver. Arthur, the 4th response person, believed there was a different gun (a clip loading gun) than that depicted in the photograph that he was shown. Similarly, Wacha and Iacone saw a different gun (a silver gun).

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(A later meeting -- with a D.C. forensic scientist who observed a photo of the gun powder hand residue -- revealed that such an amount of residue indicated numerous firings of the weapon. At this meeting, Greene agreed that numerous firings could be an explanation for such residue.) This gun powder residue is not only questionable due to amount but is also questionable due to its thumb/index finger placement on VF's right hand. See infra.

The backwards position of the weapon -- for a voluntary suicide discharge -- would have required a firm grip on the revolving cylinder with the right hand (with thumb through the trigger guard) and a firm grip on the gun handle by the left hand. The weapon is not small or of slight weight. However, on this humid summer day, though the weapon was found untouched in the clutch of VF's right hand (VF's thumb jammed in the trigger and guard), no fingerprints, partials or even smudges were found on the weapon. Also, no prints were found even though VF supposedly held the weapon tightly enough not to break or even chip his teeth upon discharge. Apparently, this would mean VF, supposedly contemplating his life, did not have moisture or sweat on his hands as he held the loaded weapon in his mouth.

Contrary to my position, Tuohey and Greene did not find these facts troubling. I added that the FBI latent examiner stated to me that the weapon appeared clean or wiped when he received it from the USPP. I also reported that agent Colombell had stated to me that (1) by the USPP's own admission to him, the USPP's latent test was rushed, (2) a "taping" of the entire weapon to recover prints possibly destroyed prints, partials or smudges, if any existed, and (3) the weapon was processed without the proper chain of custody transfer from the USPP scene evidence collector.

VII.

I pointed out that, on July 20, 1993, VF had a normal morning at work. "Notes" from initial USPP interviews, conducted immediately after VF died, revealed the following. VF's secretary, Deborah Gorham, stated that she noticed "nothing different from normal in [the] last week." Gorham said there was "nothing unusual in his [VF's] mood that morning" and it was "normal for him [VF] to be quiet." Pond, Nussbaum's secretary, stated that she observed "no depression" and that there had been "no difference in VF's emotional state." Pond added that she was "unaware of any weight loss." Months later, Pond confided to another White House staffer that VF really seemed OK when he left at 1:10 p.m. on July 20, 1993. Nussbaum similarly detected "no unusual behavior" prior to VF leaving the counsel's office at 1:10 p.m. on July 20, 1993. Moreover, the USPP notes indicate that at 12:17 p.m. on the 20th -- less than one hour before VF leaves the counsel's office -- VF was actively working and

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returned Brant Buck's telephone call (presumably concerning the blind trust matter). Buck was out. VF nevertheless had a brief conversation with Buck's secretary, Linda Johnson. The USPP notes indicate that, according to Johnson, VF "appeared to be normal" and "nothing [was] out of the ordinary." Gordon Rather, (VF's long time friend and a partner at Bruce Lindsay's firm) also tried to communicate with VF on the day of his death. Rather stated that based on his past dealings with VF and, having personally met with him only 4 months earlier, "[VF] was the same Vince [Foster] he has always known" and Rather offered that "[VF] was a very impressive person." These initial interview statements were not addressed by Fiske counsel in its final report.

Subsequent FBI interviews of these witness and other legal counsel staff indicate that, contrary to earlier statements, VF was preoccupied and not fully responsive on the morning of his death. White House and legal counsel staff all -- oddly in these later interviews -- used similar descriptions of VF's preoccupied manner. Against this background, I reminded Tuohy that the legal counsel's office admitted that the secretaries had been "prepared". Also, with the exception of Colombell, FBI agents who I interviewed stated that, across the board, the counsel's office staff appeared to be incomplete or false in response to questions.

VIII.

I pointed out that while one secretary was unsure if VF left with his coat and a briefcase and another was sure he had no briefcase when he left with his coat, a legal counsel office clerk, Castleton, recalled that VF left with both a briefcase and coat.⁹ Also, VF took a beeper, which beeper was supposedly off

⁹At least four non-law enforcement, i.e. non-USPP, personnel observed a briefcase with VF's coat in the Ft. Marcy parking lot. Witnesses (Hall, Gonzalez and W5) observed the briefcase in VF's locked vehicle after the witnesses had observed VF's body. Hall and Gonzalez described the briefcase as black. Photos taken of VF's vehicle on July 20, 1993 -- in the Ft. Marcy parking lot -- depict a black briefcase on parking lot asphalt between VF's car and an adjacent responding USPP vehicle. W2 stated that he observed a briefcase at a time prior to discovery of VF's death. Moreover, the existing record is clear that VF had at least two briefcases. Indeed, PT searched one briefcase, Lindsay recalled two briefcases, and Nussbaum searched a different briefcase than that searched by PT. The briefcase searched by Nussbaum was later turned over to OIC. Fiske counsel only concluded one briefcase existed and failed to probe observations of a briefcase with VF's coat in the Ft. Marcy parking area.

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when USPP arrived to VF's corpse. VF's intent to return is also demonstrated by his statement upon leaving: "I'll be back". Moreover, I pointed out that it was odd that VF appeared to be in a hurry or, at least, to be on a time schedule, i.e. VF appeared to have somewhere to go. This is demonstrated by the manner in which he left, how he ate and the manner in which he acquired his lunch. On the other hand, after a subsequent interview by Colombell regarding how VF acquired his lunch, Castleton stated that he was not sent by VF to hurry VF's lunch along.

IX.

On the day of VF's death, during the afternoon, I pointed out that LF was occupied by Watson's wife. (VF apparently was at odds with Watson because of the travel office matter.)

At approximately the time VF's corpse was being photographed by USPP, LF was seen and talked to by neighbors as she worked on her front yard. I advocated interviewing the neighbors at least concerning: conversations with Foster family members, dealings with VF, security concerns the Fosters may have expressed and regarding whether the Fosters stated their sentiments about being in Washington, D.C. Fiske counsel only interviewed neighbors in connection with Craig Livingstone's claimed presence in the neighborhood on the 21st morning.

X.

I next focused on Ft. Marcy park generally.

I stated that the FBI refused to provide me with a scale map and a map indicating all maintenance roads. I pointed out that I walked a maintenance road from the second cannon area (where VF's corpse was found) and that there was at least one additional, supposedly pedestrian only, entrance to the park (this second entrance is closer to the second cannon than the main entrance). The second entrance has a parking area. There is no evidence that this second entrance and parking area was secured or investigated at the time VF's corpse was processed by USPP. Fiske counsel has not investigated any aspects of this second entrance and it is not indicated in any FBI reports or USPP reports. It appears Congress did not know of the second entrance and second parking area. Since VF's death, it appears a fence has been erected at this second entrance and the area between the second cannon and the maintenance road has been altered.

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As part of our general discussion, Greene, upon examining USPP on-the-scene polaroid photos, observed that the photos depict an unusual darkness background. Kavanaugh had also made this observation. By contrast, the body was found and photographed between 6:15 p.m. and 7:00 p.m. on a clear summer day.¹⁰ (I investigated these photos with the assistance of paralegal Lucia Rambusch. See infra.)

Also, as part of our general discussion, I pointed out that -- although taken -- no 35mm photos were successfully developed and although there were at least five photographers, only 18 polaroid photos were provided by USPP to OIC.¹¹ The USPP provided OIC 18 "polaroid copies" of 18 polaroid photos and no 35mm photos of the death scene. The original polaroids were also provided. Both the original polaroids and the polaroid copies are of poor quality, depicting poor color and blurred, bleached objects. Obviously, the polaroid copies are even more distorted

¹⁰At this point, I described the day according to the existing record: it was a hot, humid, July afternoon, the parkway traffic was crawling, and there was a clear sky.

¹¹The following USPP were observed as polaroid photographers: Braun (VF's vehicle in Ft. Marcy parking lot), Edwards (VF corpse), Simonello (VF corpse), Ferstl (VF corpse), Rolla (VF corpse). Only photos from Braun, Edwards and Simonello have been received by OIC. Significantly, Ferstl's polaroids (which OIC does not possess) were taken before the special (Criminal Investigation Branch (CIB)) team -- Braun, Siminello and Rolla -- arrived. The gun in VF's hand supposedly changed color and position after this special team arrived and the glasses were also found after this special team arrived. Braun supplied 5 photos, Edwards supplied 5 photos, and Simonello supplied 8 photos. Ferstl estimated he took at least 7 photos but none have been provided. Witnesses observed Rolla taking polaroid photos but none have been provided. Regarding the polaroids, the original emulsion package numbers indicate at least 4 packages (minimum of 10 per package) of film was used (excluding an apparent 5th package for Ferstl's 7 photos). Thus, OIC does not have all polaroids.

At least, Simonello took 35 mm photos (in addition to polaroids). Other USPP may have taken 35 mm photos. However, none of his 35 mm photos resulted in a clear depiction -- the camera was improperly set and each frame was over-exposed. Despite the claimed best efforts and technology of the FBI, the existing 35 mm photos are useless.

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than the original polaroids.¹² I also pointed out to Greene that the terrain and foliage depicted does not match in each picture. The second cannon appears only in one on-the-scene polaroid photo (wherein only the top of VF's head is barely discernable), despite the cannon being approximately 10 feet from the corpse. Also, VF's glasses are depicted in a strange arrangement, found completely folded approximately 20 feet from the head of VF's corpse, with no spatter or prints/partials/smudges. The glasses are found, after an unsuccessful preliminary search, by Simonello, USPP, who specially arrived from the USPP station in Anacostia over 30 minutes after the body was discovered.¹³

XI.

I then specifically focused on the first time Ft. Marcy park is possibly linked to VF.

I reported that at approximately 2:30 p.m. a witness (W1) driving on the G.W. Parkway observed an out-of-state Japanese-type metallic colored car dart, cut into, the Ft. Marcy parking area. The driver of the metallic colored car, says W1 during an initial interview, was alone and was a white male. W1 only saw the rear of the metallic colored car. W1 initially believed the car to possess out-of-state (Arkansas or Ohio) plates. However, when shown a photo of the rear of VF's car, W1 is confident that it was not VF's car. W1 stated that the car that cut him off was a different color and that the metallic colored car displayed a different type plate than VF's car. Despite a subsequent FBI interview by Colombell in which W1 supposedly cut back on his confidence in his recollections, W1 steadfastly maintained it was an Arkansas, or similarly identified plate on the car and that it was not VF's car, as depicted.

¹²Moreover, only polaroid copies of original polaroids were analyzed by FBI lab technicians in blood spatter analysis and also by the forensic scientist team relied upon by Fiske counsel. Apparently, blow-ups of "polaroid copies of polaroid originals" were shown to EMT witnesses. All witnesses will thus have bases on "new evidence" to formulate their refreshed recollection, including the forensic scientist team relied upon by Fiske counsel. I have already taken successful steps in this direction.

¹³After preliminary review of some photos, Tuohey had to leave for a short time, then Kavanaugh left for a short time. Both counsel then returned and then again left at different times, as needed, during the afternoon. I continued with Greene and the counsel as each was present.

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Although Tuohey's position (and the Fiske report) was contrary, I pointed out that VF was thus not identified by car at that time. Indeed, W1 could have observed anyone with out-of-state plates driving into the park, even someone who VF was to meet or who was otherwise coming to the scene. Indeed, a metallic colored car was later seen next to VF's car in the Ft. Marcy parking area. See infra. Despite W1's disagreement, that the metallic car was VF's car, Fiske counsel only stated that they were "unable" to conclude time of arrival of the car.

XII.

I pointed out that, in fact, the first time VF's car was observed at Ft. Marcy Park was at approximately 4:30 p.m. At that time, a witness (W2) stopped at Ft. Marcy park to urinate.

W2 saw VF's car parked where it was later found -- at a front (approximately 4th) parking space as one enters the lot. W2 walked along the side of VF's car. W2 saw, "draped over the driver's seat", VF's coat and VF's leather briefcase on the passenger side seat. W2 specifically recalled the presence of VF's briefcase. W2 clearly identified VF's car. In addition, W2 recalled a dark metallic Japanese type car near the front of the parking lot, i.e. near where VF's car was parked at 4:30 p.m. There was a dark complexion male in the car watching W2. In fact, as W2 walked near VF's car, the male in the metallic colored car got out of his metallic colored car and stood next to it.

The USPP, the FBI and Fiske counsel did not attempt to investigate the metallic colored car or its occupant. W2's recollection of the occupant as a person watching him as he was next to VF's car is not recounted in the Fiske report. Further, Fiske counsel did not address this witness' account of the metallic car in its public report.

XIII.

I next discussed W3 and W4. These witnesses, with intent to picnic, arrived at the park in one car at approximately 5:00 - 5:30 p.m. While reports stated W3 and W4 were in a white Nissan sedan, no pictures of the car exist. (What does the registration say?) W3 and W4 were seated in their car, backed into a space at the far end of the lot. W3 stated that she observed 4 people in the park before they (W3 and W4) were contacted by responding personnel. W3, as they pulled into the parking area, saw a dark haired male with no shirt sitting in the driver's seat of VF's car; she saw W5 and his van, see infra; she saw a sedan driven by a shaggy haired male pull into the lot and then pull out; and she later saw a big and burly dark haired male in jeans in the lower park area (after W3 and W4 left their car

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to picnic). W4 stated he recalled at least 3 persons. W4 saw a shaggy haired blond male working under VF's car hood; W4 saw W5 and W5's white van, see infra; and a jogger type white male in the lower park area (after W3 and W4 left their car to picnic. The witnesses' USPP interview is contrary on each and every point. W3 boldly claimed, after reviewing the USPP interview report by USPP Braun, that the USPP report was flatly "untrue". Oddly, these two witnesses names, addresses, phone numbers and SSN were on David Watkins' White House stationery. Subsequent interviews resulted in one of the two witnesses stating wine coolers were in the witnesses' own car and that their car was a white 4-door Nissan with blue interior.

W3's and W4's recounting, on the other hand, of the white van, (belonging to W5 -- the confidential witness) is consistently reported.¹⁴

Later, W3 and W4 are found picnicking in another area of the park, an opposite end from the corpse.

Even though W3 and W4 corrected the USPP interview report with their later (FBI) statements, Fiske counsel did not state W3's and W4's observations of persons working on VF's car and sitting in VF's car. The observations occurred immediately before W5 observed VF's corpse, i.e. VF was already dead.

IVX.

W5, a confidential witness, was the next person to arrive at the Ft. Marcy parking area. W5 arrived at approximately 5:30 p.m. W5 was consistently observed by W3 and W4. W5 upon arriving in a white van, threw trash away and then walked the upper, north, path searching for a private area to urinate. W5 found his way to the second cannon area. W5 stated that he was familiar with Ft. Marcy park, having been to the park on a previous occasion. About the time (or after) W5 urinated, he saw the corpse. He went over to the corpse and stood approximately three feet from VF's head. W5 stared at VF, the corpse, for several minutes. W5 also observed a wine cooler type bottle, half-consumed, next to VF's body. W5 believed that there were wine cooler stains on VF's shirt. (Later review of autopsy

¹⁴Here, I digressed and offered the following observation, based on my reading of the entire death and document records: witness accounts were consistently reported (as re-interviewed) on issues suggesting suicide but inconsistently reported on other issues.

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photos indicated that VF's shirt was wet and cleaned in spots, i.e., there is a wet spot detected on the shirt in the area depicted as containing a purplish spot.) W5 observed a trampled area below the corpse looking down from the berm. W5 left the scene and returned to the parking area. Upon returning to the parking area, W5 looked into VF's vehicle, the brown Honda, and observed VF's coat, briefcase, and tie. W5 then left the parking area and went to another park, Turkey Run park, and notified park workers who relayed this information at approximately 5:50 p.m.

XV.

Review of emergency vehicle dispatch logs indicate that the medic unit called, Medic 1, was dispatched at 6:03 p.m. At the same time, an Engine crew, Engine 1, was dispatched from the same fire house, Station 1. The dispatch logs also indicate that the medic unit and engine unit were packed up and on their way back to the station from Ft. Marcy at 6:37 p.m. Thereafter, the dispatch logs indicate that the U.S. Park Police (USPP) requested an ambulance to transport the body at 7:45 p.m. The ambulance unit was on scene at Ft. Marcy park to transport the body at 8:16 p.m. Thus, the USPP were in exclusive control of VF's corpse from 6:37 p.m. to after 8:00 p.m. Thus, there is no evidence that anyone other than USPP personnel (excepting Dr. Haut who arrived at 7:40 p.m.) were in Ft. Marcy park or anywhere near the death scene for approximately 1 1/2 hours.

XVI.

W6, a white female driving a Mercedes, arrived at the entrance of Ft. Marcy park at approximately 6:00 p.m. W6 was experiencing car trouble and abandoned her vehicle at the entrance to Ft. Marcy park. As she left her vehicle, she left the Mercedes' emergency lights on. W6 then walked into the Ft. Marcy parking area from the GW Parkway entrance. On the way, W6 observed a well-dressed white male sitting in a white Honda. The white male was looking at papers in the white Honda. The white male made comments to her, asking her if he could help her. He then started his engine and followed her into the park. Eventually, he went past her and into the parking area where he turned his vehicle around and then exited the parking area. W6 continued into the parking lot area, specifically, the upper parking lot area. W6 does not know what cars were in the lower parking lot area, e.g., W3 and W4's white Nissan. W6 observed at the upper parking lot area, VF's Honda and also a dark blue (metallic?) car. W6, not being able to find a public telephone, then walked back out of the Ft. Marcy parking lot area and proceeded to walk on the right shoulder of the G.W. Parkway.

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XVII.

When the emergency vehicles arrived at approximately 6:10 p.m., there were supposedly only two vehicles in the Ft. Marcy parking area. The brown Honda, VF's car, and the white Nissan at the lower parking area (the vehicle used by W3 and W4).

Some emergency personnel recall there being a red or reddish Honda also present in the parking lot area or entrance area. Also, emergency personnel differ in their recollection of USPP arrival. In fact, USPP Fornshill arrived at the scene at approximately 6:10 p.m. It is unclear from the existing record whether Fornshill arrived before or after the emergency vehicles.

When the USPP vehicle and the emergency personnel got together, they decided to split into two teams to search for the reported corpse. The north path was pursued by Team 2, comprised of Gonzalez, Hall and USPP Fornshill. The lower (Pimmit Run) path, i.e. southern path, was investigated by the Engine 1 crew (Pisani, Iacone, and Wacha) and Arthur, EMT. Team 1, the Engine 1 crew and Arthur, passed W3 and W4 as they moved on the Pimmit Run path in the direction of the Potomac river. Upon notification from dispatch that Team 2 had found the corpse, Team 1 retraced their steps and saw W3 and W4 a second time. When Team 1 arrived in the parking area, USPP were in the area but not observed in the parking area.

Then, Team 1 personnel all went to the death scene area. In particular, Team 1 passed Team 2 on the way to the death scene and Team 1 received instruction on how to get to the death scene as they passed Team 2. Gonzalez (and Hall) before returning from the death scene, indicated the DOA status of the body to dispatch. As Gonzales and Hall were leaving the death scene area at cannon area 2, Gonzalez and Hall saw USPP personnel enter cannon area 2. Fornshill, however, stated that these personnel were other EMT or emergency personnel. In other words, Fornshill did not recognize these persons any more than Gonzalez and Hall recognized these persons.

XVIII.

Regarding Team 2, I explained that when Fornshill arrived at the corpse, it was approximately 6:10 p.m. Fornshill arrived with Hall nearby, then Hall rushed over, and seconds later, Gonzalez rushed over. Thus, the only USPP officer, of all seven responding personnel present and searching, located the corpse. When Hall rushed over, pursuant to Fornshill's shout of discovery, Hall saw and heard a person in orange moving swiftly away behind bushes on the maintenance path/road immediately below the berm and corpse. In a later re-interview, Hall supposedly cut back on his initial statement and said he may have seen and

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heard a car on Chain Bridge Road. Chain Bridge Road, however, was approximately 100 yards away and Hall did not know Chain Bridge Road even existed. At the time, Hall was so sure of his observations on the park's path/road immediately below the berm, that he told Fornshill "there's someone down there."¹⁵

Gonzalez, upon rushing to the corpse, observed that the body was in a laid out position with no blood on the ground. The pictures show no blood on the ground. Gonzalez checked for a pulse but did not move the head or the body. Neither Hall nor Fornshill moved the body; similarly, no one present observed the other move the head or the body. The upper right side of VF's shirt, however, was spattered with blood and "unidentified" debris. (Why was the debris not identified?) Later interviews indicated the witnesses believed it to be vomit or dried, coagulated blood. Gonzalez, a paramedic, believed the decedent suffered a bullet wound to the head (with an entry point from the neck's bloody area?).

I reminded Tuohey that only two identical sets of 18 polaroid photographs were provided to OIC. One photo clearly depicts a dark, burnt appearing, blood area on VF's neck. The D.C. medical examiner who observed the photo stated that, if the picture were cropped and without knowing more, the burnt blood patch looked like a bullet hole or puncture wound. Based on my own experience and training, I am confident the traumatized area was caused by a "stun-gun" or "tazer" type weapon.

In addition, I pointed out that the third EMT to the body, EMT Arthur, concluded that there was a puncture wound or bullet wound on VF's neck. I offered that such wound(s) would explain the upper right shoulder blood. Arthur is also a "paramedic" EMT.

Regarding the trauma to the neck area, I jumped forward to an autopsy photograph depicting the right side of the neck. I offered my opinion that two puncture like wounds can be observed. The D.C. Medical Examiner similarly observed the appearance of crater-like indentations on the right side of the neck. The examiner stated that such could be caused by a foreign object folded into the neck upon transport. However, due to the burnt blood area observed and photographed at the scene, it is illogical that such occurred during transport. The autopsy report does not identify trauma to the neck.

¹⁵Attached hereto is a reproduction of a diagram
 The diagram depicts Ft. Marcy Park and the paths traveled by Team 1 and Team 2 vis-a-vis the cannon areas and corpse.

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Against this background, the neck area and the original photographs have not been investigated by Fiske counsel.

IXX.

I next offered to provide the following written summary of USPP and emergency personnel (FBI 302) statements.

Apt, USPP, responding to the Ft. Marcy Park scene, stated that she received the call to respond at approximately 6:00 p.m. Apt recalled that before going into the parking lot, she took information regarding the abandoned Mercedes "on the entrance ramp" to the park. When she arrived at the Ft. Marcy parking lot Apt saw Spetz, USPP, interviewing the picnicking couple, W3 and W4. Apt then said she went to the death scene "immediately" with Rolla, Braun and Simonello, USPP. At the death scene, Apt saw Edwards, Ferstl, and Hodakievic. Apt saw Edwards "completing" taking polaroid pictures. Apt then saw Rolla "commence" taking polaroid pictures. She also saw Simonello taking 35 mm pictures of the corpse. Apt supposedly took careful notes of the death scene. Apt made observations of the corpse from a series of vantage points. It is unclear if Apt's notes were obtained by OIC. Apt provided her notes to Rolla after she returned to the USPP Anacostia substation. Apt says no one touched/moved corpse until deputy medical examiner Haut arrived, which was at approximately 7:40 p.m.

Arthur, EMT, in his first interview stated that he had been present for numerous suicide investigations and approximately 20 have been by gun shot. Arthur stated that Gonzales, EMT, and Hall, EMT, arrived at the parking lot together. Arthur separated from Hall and Gonzales by forming teams. On the scene, Arthur stated that during his team's search, they discovered two people together, later identified was W3 and W4. Arthur told a female uniformed USPP of W3 and W4. Gonzalez and Hall were running en route back to the parking area when Arthur started out in the direction of the corpse. Arthur stated that he later arrived at the area where the corpse was discovered. In fact, Arthur was the 3rd EMT to respond to the scene and observe the corpse. Arthur recalled seeing blood on the right shoulder and shirt area of the corpse. He also observed a bullet wound (possibly .45 caliber) on the right side of the neck under the jaw line. Arthur stated that the neck area had a small caliber bullet hole under the jaw line about halfway between the ear and the tip of the chin before seeing any pictures and before contact by law enforcement. Arthur also observed the gun in VF's right hand and that the gun barrel was "half-way" under VF's thigh. Arthur stated that he was at VF's right side near VF's head when he observed VF's neck and that he was approximately two to three feet from VF's right hand. Arthur believes that the gun that he saw was a "straight-barrel" 9 mm

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"clip-loading" pistol. Arthur stated that he believed the bullet hole on the neck area to be caused by a different caliber weapon. Arthur stated that he did not touch or move VF at the death scene and further Arthur stated that he was not aware of anyone else touching the corpse.

Ashford, EMT, was assigned to take the corpse to the morgue at Fairfax Hospital. Upon arriving at the parking area, Ashford recalled seeing a number of USPP vehicles and a reddish Honda. Similarly, Arthur had observed a red car with its hazard lights blinking in the Ft. Marcy parking area. Ashford also saw a black cadillac in the parking area. When the corpse was lifted, Ashford saw no blood. Ashford could not recall USPP helping to lift the corpse. Ashford classified the death as homicide. Ashford saw the hospital physician examine the corpse by taking a pulse.

Lt. Bianchi, FCFRD fire fighter, was the officer-in-charge on Truck 1, with Jacobs (driver) and Makuch. When the Truck 1 team got to the death scene, the corpse was already in the body bag. Lt. Bianchi observed that Ashford and Harrison did not have blood on their clothes even though they had lifted the body. Lt. Bianchi had the body bag opened so that he could put a tag on VF's toe. Lt. Bianchi stated that Truck 1 got to Ft. Marcy at 8:00 p.m. Lt. Bianchi was aware of Ashford's "homicide" conclusion and of Arthur's statements. Due to these statements a gag order was made pursuant to existing policy. The gag order only applied when FCFRD personnel when they were on duty. Lt. Bianchi observed that VF's car was open when he arrived at approximately 8:00 p.m. Lt. Bianchi observed a 10-inch diameter pool of blood where he "assumed" VF's head had been located. However, by this time the corpse had been rolled, moved and carried to a body bag.

Braun, USPP, was at USPP Anacostia substation with Apt and Rolla when the call came in regarding a corpse at Ft. Marcy. Braun instructed that on-scene USPP should close the park gate. Braun arrived between 6:30 and 6:45. Braun recalled the Mercedes at the park entrance, VF's car and the car of W3 and W4. Braun saw Spetz questioning W3 and W4 when she arrived. Braun recalled Lt. Gavin on the scene. Lt. Gavin was the shift commander, and Gavin left quickly after Braun arrived. Braun, Rolla and Apt waited for Simonello to arrive. Braun walked to scene with Rolla, Apt, and Simonello. Braun saw the revolver in VF's hand when she arrived. Braun saw Rolla take polaroids, Simonello take 35 mm, and she knew that Rolla found the glasses. Braun said all pictures were taken prior to the corpse being moved, touched or disturbed. Rolla then checked the corpse for car keys. (Braun and Rolla later had to go to the morgue with Rolla to get the keys.) Braun went back to VF's car and found VF's coat with wallet (containing White House id). Lt. Gavin,

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said Braun, confirmed advisement of the White House's identification for VF between 7:30 and 7:45 p.m. En route to the hospital, Braun was notified that Watkins wanted to go with USPP to the Foster residence. Either Braun or Rolla allowed the hospital to permit Livingstone and Kennedy to identify the corpse. Braun gave no times for any actions. When Braun, Rolla and Watkins arrived at the Foster residence, LF and Laura Foster were present, with sisters Sheila Anthony and Bowman. LF said/asked "whether her husband had put the gun in his mouth." Braun and Rolla left after WJC arrived. Hubbell was also present at the Foster residence. As Braun was departing, Watkins promised to seal VF's office. During the drive to the Foster residence, Watkins supposedly told Braun that VF was upset about the travel office matter. Why did Braun and Rolla agree to give notice under such conditions, i.e. where the officers had no control?

Hodakievic, USPP, happened to be near Ft. Marcy Park at 6:00 p.m., although she was off duty. After hearing of the corpse, Hodakievic went to Ft. March park. Hodakievic saw the abandoned Mercedes "on the entrance ramp". Hodakievic saw an EMT team in the parking area; she then went to the death scene. Sgt. Edwards, USPP, and Ferstl, USPP, were at death scene when Hodakievic arrived. No one else was present. Hodakievic was briefed by Sgt. Edwards and shown polaroids taken by Edwards (or possibly Ferstl). Edwards told her that VF had a revolver. Hodakievic walked around the corpse, but she did not observe a gun and she did not see blood. No one escorted Hodakievic to the death scene. (How did she get there?) Hodakievic was at the death scene for 10 minutes when Rolla, Braun and Apt arrived. Hodakievic escorted Haut to the death scene. (Who called Haut, why and at what time?) When Haut arrived only Rolla, Braun and Apt were present at the death scene. (Where were Edwards and Gavin?) Prior to this, Hodakievic only saw Rolla touch the corpse to check VF's pockets. She overheard Rolla tell Haut that the exit wound was behind the head. She saw VF's head raised so that Haut could see the exit wound and blood under VF's head. Hodakievic said that additional photos exist -- that were taken and shown by Edwards to her. (She knows other photos exist because those photos shown to her by the FBI were different than those she saw on the scene.)

Sgt. Edwards, USPP, by coincidence,¹⁶ overheard radio of the corpse at Ft. Marcy park. He arrived at 6:20 p.m. Edwards had come from the USPP Communications Center on Ohio Drive, Washington, D.C. Sgt. Edwards said other USPP were already at the death scene when he arrived. (How did he get to

¹⁶Fornshill, Hodakievic, Spetz, and Edwards (and Gavin?) all were available by apparent coincidence.

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the scene that fast?) When Edwards got to the death scene, he specifically recalled Fornshill and Ferstl being present. Edwards sent Fornshill back to the G.W. Parkway/CIA gate. Edwards claimed blood was "running" down the side of the mouth. Edwards did not touch the corpse and did not see anyone touch the corpse. Edwards saw Ferstl take polaroids. Edwards was still at the death scene when Braun, Rolla and Simonello arrived. Edwards saw 35 mm photos being taken by Simonello. Edwards left only after the corpse was removed.

Ferstl, USPP, was assigned "patrol of the G.W. Parkway" when, at approximately 6:15 p.m., the dispatcher told him to go to Ft. Marcy regarding the corpse. En route, Ferstl heard Fornshill say -- over the radio -- he was responding too. Ferstl stated his arrival was at approximately 6:30 p.m. Ferstl recalled the Mercedes at the entrance. Ferstl saw VF's car and he saw a second car at the back of the parking area. When Ferstl arrived Fornshill was already at the death scene, with the two EMT's. Ferstl saw no one touch the corpse, the blood was not fresh. Ferstl saw no blood from nose and none on the shirt. Ferstl saw a gun in VF's right hand, but he gave no description. Ferstl said Fornshill told him there was a gun, but Fornshill said he never saw a gun. Ferstl left for crime scene tape. Ferstl did not see any evidence (glasses) in the area or any "wine bottles" when he returned and taped the area. (Thus, the area was taped off immediately. As Ferstl returned to the scene to tape it, EMT's were leaving. (In fact, all the EMT's left the parking lot area at 6:37 p.m.) Ferstl admits that he took polaroid photos, at least 7 photos; Ferstl stated the corpse was not moved when he returned with tape. Edwards arrived after Ferstl had taken the 7 photos and had taped off the area. Ferstl gave his photos to Edwards.¹⁷ Edwards sent Ferstl away (as he had sent Fornshill away earlier) when the special team of Braun, Rolla and Simonello arrived. Then, after cursory review of death scene, Braun left with Ferstl to the parking area, where Braun found White House identification. Ferstl also assisted Spetz in interviewing W3 and W4.

Fornshill, USPP (Glen Echo Substation), coincidentally, was asked to work an overtime detail near Ft. Marcy park. Between 5:50 and 6:00 p.m., Edwards gave him

¹⁷Edwards apparently showed these photos to Hodakievic, plus Edwards' own photos. Later, I suggested, after the corpse was staged with the revolver brought by Braun, Simonello and Rolla. New photos were taken and thus Ferstl's were never produced to OIC. This explained the different arm/body distance, gun/hand positions, Hodakievic's problems with the photos, Ferstl's missing photos and EMT problems with the photos (and their observation of a different gun).

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permission to respond to the corpse at Ft. Marcy park. (Who called whom, and how could Fornshill get permission before the 911 call?) The sector or beat officer could not respond, so Fornshill did? (Who was the beat officer, what is the sector, what is the substation, how many substations, where, how many personnel?) (Wasn't Ferstl the beat officer?) Fornshill's "instructions" were to join up with the EMT personnel. Fornshill found the corpse. (How did Edward's know of EMT personnel? Did Fornshill have special or additional information from Edwards?) Fornshill did not see blood on face or shirt -- just a trickle of dried blood on corner of mouth. Fornshill did not see a weapon, and Fornshill saw no one touch the corpse. Fornshill said that after the EMT's pronounced VF dead, 2 or 3 additional EMT's arrived. (However, Gonzalez and Hall said it was USPP that arrived and specifically a short fat blonde female. Thus, when Gonzalez and Hall left they believed only USPP were still on scene; when Fornshill stood away, he thought he was leaving the corpse to EMT's. In fact, Arthur was still on his way because Arthur passes Gonzalez and Hall.) The next persons to arrive were Edwards and Ferstl (together?). Edwards then ordered Fornshill back to his CIA/G.W. Parkway post. Thus when Fornshill left, he believed he was leaving the body to 2-3 EMT's plus Edwards and Ferstl. Fornshill stated that he was only at the death scene less than 10 minutes. Fornshill only stated he saw the coat in VF's car. (Was he even asked about the briefcase? Was the car locked? and, who was present at the car?)

Lt. Gavin,¹⁸ USPP, was the shift commander who arrived at park between 6:30 - 6:45 p.m. Fornshill and Edwards were at the corpse when he arrived; Ferstl and Hodakievic were in the parking area. Hodakievic directed Gavin to the corpse. The EMT personnel had already left the corpse and were also in the parking area. Gavin saw the Mercedes in the entrance ramp, VF's car and he denied he saw a "white Nissan." Gavin saw no blood on shirt and no blood from nose. He recalled a gun. Gavin saw all 13 death scene photos. Gavin said that he stayed for 30 - 45 minutes and that during the time he was there, no White House identification was discovered. (This is completely inconsistent with Ferstl and Braun as to finding of White House identification.) "Within 10 minutes" of getting the notice from Braun regarding White House id, Gavin called Burton who asked if the gun was registered and who owned the gun. Watkins then called Gavin and made similar inquiry. Gavin kept rough notes of calls, but OIC does not have the originals. Gavin's notes indicate "engine warm on vehicle."

¹⁸Both Sgt. Edwards and Gavin, both commanders-in-charge the evening of the death, were transferred, after handling the death scene, to USPP in Glencoe, Georgia. Braun was promoted to Sergeant.

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Gonzalez, EMT, responded in Medic 1 from FCFRD. Daylight was visible. Gonzalez saw the Mercedes, white Nissan, VF's car and the USPP car that came just after Medic 1. Dispatch had instructed that the corpse was near a cannon. Forhsnill (and Hall) got to the corpse first, seconds later Gonzalez arrived. VF "suffered a gunshot wound to the head." Gonzalez was not initially asked about an entry point. Gonzalez did not touch VF; but, he looked into VF's mouth and saw blood. Hall was with Gonzalez and may have touched the corpse. Gonzalez and Hall departed and then saw VF's car. As Gonzalez and Hall were departing, a "second" USPP in uniform and then "other investigators" began to arrive. In the car, Gonzalez saw a tie, coat and a "black briefcase." USPP officers were gathering around VF's vehicle. (Who were these officers?) No Fairfax County PD were at the scene. Once it was determined to be a death, FCFRD SOP required an ambulance unit. However, while the EMT's left at 6:37 p.m., no USPP call for an ambulance was made until 7:45 p.m. Gonzalez saw 3-4 photos and believed VF's hand was in a different position. On the second interview, Gonzalez said: there was no trauma to the neck and no puncture wounds to the neck; Gonzalez, however, did not observe the lower portion of VF's neck; Gonzalez could "only see the cylinder of the gun"; little blood was under the head; and he did observe blood on the shoulder. There was vomit and blood on VF's shoulders. Gonzalez estimated that VF had been dead 2-4 hours. Gonzalez did not comment on rigor mortis.

Iacone, EMT, was the officer in charge of Engine 1, which was assigned to Station 1 in McLean. Engine 1 was dispatched for a "shooting victim" at Ft. Marcy park. Arthur and the Engine 1 crew went in one direction, possibly toward Dead Run Creek/Pimmit Run. Engine 1 crew consisted of Pisani, Iacone and Wacha. While searching the woods, Iacone learned from dispatch that Gonzalez' team had found the corpse. Iacone and his entire group arrived at the corpse. Iacone did not recall observing any blood. He saw a gun in VF's hand, a revolver. He did not see an entrance wound. After Iacone's crew left, the EMT's went to the parking area. Iacone did not indicate who the EMT's left at the death scene. Iacone saw the coat "hanging" inside VF car. Hall and Iacone tried the doors, but the car was locked. Iacone told the USPP that the coat matched the pants on the corpse. (Does Iacone know if the car was opened before they left the parking area?) (Did Iacone see the briefcase?) Iacone recalled W3 and W4, both coming and going to Pimmit Run. When Iacone and his team arrived at the death scene, USPP (more than one) had already "secured the scene." Iacone is sure the gun was silver in color and different from the pictures he saw from the FBI.

Harrison, EMT, was the driver of the ambulance dispatched to pick up the corpse. USPP were waiting for the ambulance at the parking area. A USPP helped Harrison and

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Ashford lift the corpse. Harrison and Ashford were at top portion of the corpse. Harrison saw no blood at the scene. There were 6-7 USPP officers at the death scene. Harrison did not see blood on the body or on the ground area. No blood was on Harrison or Ashford. The weather was clear.

Hall, EMT, said that USPP were already on site when Medic 1 arrived. Hall and Gonzalez went with USPP while the other emergency personnel (from Engine 1) went with Arthur. The only USPP present, Fornshill, located the corpse first. (Was it staged? Did USPP know where to go? Was the USPP leading them?) There was gun in hand. No description was given by Hall because he could barely see the gun. Hall checked for pulse. No blood was on the corpse shirt or body, except droplets. VF's right hand was under VF's right thigh. Hall "heard" someone in the woods and then saw someone in an orange vest moving in the woods. When the EMT's returned to the parking area, Hall looked into the windows of VF's car and saw the coat, black briefcase and perhaps a tie. On a second interview, Hall said that he saw someone moving in the trees surrounding VF's body. In his second interview, Hall responded affirmatively to the suggestion that maybe it was a car on Rt. 123. Hall stated that USPP were the next people to the corpse, even before Gonzalez.

Jacobs, EMT, was the driver of Truck 1, which truck was dispatched to help transport the corpse to the hospital. The corpse was already in the body bag when Jacobs arrived at the death scene. Medic 1 and Engine 1 had departed before Jacobs, in Truck 1, arrived. Jacobs heard Hall say the gun and gun hand were under the thigh. Jacobs saw VF's car, but did not say if she looked into the car.

Makuch, EMT, was on Truck 1, driven by Jacobs. The corpse was already in the body bag when Makuch arrived at the death scene. Markuch did not look into VF's car.

Pisani, EMT, was the driver of Engine 1. The Engine 1 crew went with Arthur "toward the Potomac River". Pisani's search team saw "a male and female in the woods," both going and returning from the Pimmit Run trail. USPP were in the parking lot area when the couple came out of the woods (about the same time Pisani's team returned and went toward corpse?). Pisani described the day as very warm, temperature in the 90's, humidity of 80%, daylight was visible. Pisani's team traveled to the death scene with a USPP officer. At the death scene, Arthur went to the corpse and "may" have checked the pulse. Pisani said he heard Arthur say there was a gun. Pisani never saw a gun. Pisani saw blood on VF's shoulder, but no blood on VF's face. Pisani did not see anyone move the corpse. Pisani did not see glasses on the scene. Pisani did not see any blood on the ground around the body. Pisani was shown pictures and he disagreed

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that they accurately depicted the body. Pisani's team then went back to the parking area, where Pisani, Iacone and Wacha all looked into VF's car. Apparently, Pisani was not asked what he saw in the car.

Rolla, USPP, was designated the "primary investigator" for this matter by Braun. (What does this mean? Was Rolla a rookie, with no experience? It was his first death notification.) Rolla, apparently, was the investigator at the death scene. Braun was responsible for the parking area. Rolla, Braun and Apt arrived at approximately 6:35 p.m. "Orientation" by Ferstl occurred when they arrived at the parking area. Ferstl's briefing included: (1) VF "died of self inflicted gunshot wound to the head"; (2) corpse was "tentatively identified as Vincent Foster, Little Rock, Arkansas;" and (3) the Honda belonged to VF. (How could Ferstl know Vincent Foster's name if the identification is in the car?) After orientation in parking area, Rolla, Apt, Ferstl, and Hodakievic go to the death scene, where Edwards and Spetz are already present. Edwards gave Rolla polaroid photos and then briefed Rolla: (1) the corpse had not been touched, and (2) the area had been taped off. Rolla claimed there was blood under the head, but stated that the head was not moved. Rolla claimed blood was on upper right shoulder of shirt; it was wet but drying. Rolla took his polaroid photos within "15 minutes after arriving at the death scene." (Since Rolla arrived at parking area at 6:35 and then immediately went to death scene, photos must have been completed by 7:00 p.m. Moreover, Edwards already took his before Rolla arrived, so Edwards' and Ferstl's photos are before 6:45 p.m.) Rolla photographed the glasses approximately 15 feet from corpse's feet (21 feet from VF's head). (In such dense foliage, how did glasses get that far down hill?) Rolla claimed that VF was still warm with no signs of rigor mortis. Rolla stated there was extreme heat that day. Rolla claimed the body was dead 2-3 hours. Rolla looked for keys in VF's pockets, but did not find them. The search for keys and all touching of the corpse occurred only after all photos were taken. Rolla emphasized this 3 times. Rolla reviewed the polaroids and said they were true and accurate. (How does Rolla explain 35 mm photos and the absent emulsion numbered polaroids?) Rolla found a wine cooler bottle (but failed to collect it?). Haut arrived at 7:45 p.m. At that time, the corpse was rolled. Rolla claimed to find and feel an exit wound and to see a wet spot at the crotch. Rolla removed VF's beeper, Seiko watch, and one ring. Rolla does not mention the gun. Haut watched as Rolla and two ambulance persons put the corpse in a body bag. Rolla went to the parking area, where Braun was still engaged in car inventory. Rolla said Simonello took photos (35 mm) of the car. VF's coat was neatly "folded over the back of the front passenger seat". Rolla saw the White House identification. Rolla said there was a paper with names of 3 Washington, D.C. physicians in the car (not in

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VF's wallet). Rolla said that he and Braun left at 8:45 p.m. to get keys for VF's car. (Is there a record of the keys being turned over from the hospital morgue?) Gavin called Rolla, after Rolla had obtained the keys, to contact Watkins. Then Gavin told Rolla to call Kennedy. Rolla gave morgue at hospital the okay to let Kennedy and Livingstone see the corpse. Rolla and Braun picked up Watkins and went to Foster residence, where two sisters and Hubbell were waiting. Laura Foster was met first, then she called her mother, LF. Rolla heard LF ask "did he [VF] put it in his mouth." No search of the residence occurred that evening; Rolla believed Laura Foster searched for VF's gun in the house. Rolla and Braun left after WJC arrived; they had been there approximately 45 minutes. Berl Anthony later told Rolla that his wife, Sheila Anthony, gave VF the list of 3 psychiatrists. Rolla reviewed VF's diary, 10-15 handwritten pages. Rolla got a letter to a bank to use as a handwriting exemplar. (Where is the exemplar?) Rolla said the autopsy (and the latent gun examination) was hurried because the White House wanted it.

Simonello, USPP, learned of the corpse at Ft. Marcy "shortly after 6:00 p.m." and he arrived at the parking area at approximately 6:30 p.m. (Where did he come from?) Simonello then "immediately proceeded" to the death scene. Simonello was designated the evidence technician. Already at the death scene were Edwards, Rolla, Apt, Ferstl, Braun and Hodakievic. (Thus, no one other than USPP were present at the death scene.) Simonello stated that within "approximately 15 minutes after arriving at the death scene, he took a series of 35 mm photographs, approximately 24 in number" (including some of Ft. Marcy parking area). During his interview, Simonello stated at least twice, emphatically, that all 35 mm photos were taken before the corpse was touched and before the gun was removed from the corpse. Simonello was advised by Rolla of the revolver in the corpse's right hand, and then Simonello saw that the corpse had a revolver in the right hand. Simonello observed blood on the corpse's face and right shoulder. He claimed there was a blood transfer pattern. When Simonello did touch the corpse, he noticed little rigor. (But, Simonello later said there was so much rigor that he may have destroyed prints in getting the gun from VF's hand). Simonello took possession of the glasses. (Glasses weren't observed before the arrival of Simonello, Braun and Rolla.) None of the USPP were asked about the second entrance, the path below, the maintenance road below or how the corpse got there. Simonello specifically stated that he photographed the area under the corpse, the pool of blood under the corpse. Simonello stated there were no signs of rigor in the fingers. Simonello stated that the gun was processed without his release of it, and that the processing was hurried because the White House wanted it processed. (Simonello told Colombell that the gun was mishandled during latent examination.) Simonello also collected the torn paper, gave it to Lockheart, US Capitol

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Police, with a 1 page supposed known exemplar (bank letter). Lockheart, said Simonello, concluded the two were written by VF. (Why didn't USPP use the 15 pages of the diary, the diary is handwritten?) Simonello has the known sample used for comparison. Simonello stated that contamination of evidence resulted in the different powder on evidence.

Spetz, USPP, was at the Glen Echo station at 5:30 p.m. when Spetz overheard the dispatcher calling Ferstl to respond to the corpse at Ft. Marcy park. Ferstl was at the Glen Echo station too. (Doesn't this contradict Ferstl's statement of being on patrol on the G.W. parkway?) Ferstl and Spetz, in different cars, went to parking area. Spetz said that Ferstl and she were the second and third USPP, respectively, to arrive; Fornshill was the first. Spetz saw Mercedes "on the ramp" and she observed 2 cars: VF's car and a white Nissan, Maryland tag WFL154. When Spetz arrived EMT's were coming back into the parking area. (Unclear which EMT's, but one EMT said he "did not think it was a suicide, adding words to the effect that he'd seen a number of suicides and the body was 'too clean.'" Spetz later said that there were several USPP cars in the parking area, and she did not see Ferstl; thus she "assumed" Ferstl and other officers went to the death scene. Spetz decided on her own to look in the park for the occupants of the parking lot vehicles. Spetz stated she found W3 and W4 sitting, and talking on a blanket. Spetz said W3 and W4 said they saw a white van in the parking lot area. Spetz could not recall other comments made by W3 and W4. She interviewed them together. Spetz made no written report, but she did take notes. (Which notes are her notes, even if OIC has the notes?) Spetz said she briefed Braun; Spetz said she did not go to the death scene; Spetz said she then left. (It is unclear if VF's car was opened when Spetz was present.) What did Spetz see in the two cars?

Wacha, EMT, was on Engine 1. Pisani was the driver, Iacone was the officer-in-charge, and Arthur joined them to make search team 1. Wacha saw 3 cars in the parking lot: VF's car, a car that was running (no one inside), and a car she cannot recall to describe. Search team 1 found a "couple", W3 and W4. Wacha said her team went to the corpse after the radio message. Wacha said several USPP were present when they arrived. (Where were Gonzalez and Hall, was it the same USPP at the death scene that went with Gonzalez and Hall, did she pass Gonzalez (and Hall) on the way?) Wacha saw blood on VF's shirt and face. Wacha looked into VF's car and saw coat. (Was Wacha asked about briefcase?) Wacha saw no local police at the scene. Wacha shouted to W3 and W4 to ask if they were OK. Did not see "clothes flying." Wacha and her group passed Hall (also Gonzalez?) on the way to the death scene. Wacha saw no blood on the ground or area around the body. Wacha saw a silver colored revolver in the corpse's hand. Wacha thought she saw a cylinder. Wacha thought the gun was very

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large, possibly a .45 caliber. Wacha was shown photos. (Unclear if she disagreed with the photos.)

XX.

Before returning to further discussion of USPP processing of the corpse, I briefly returned to the weapon evidence.

First, the weapon was not observed by W5 when he initially arrived at the corpse. See supra. W5 saw the corpse's hands with "palms up".

Second, the polaroid photographs depict the gun at different distances to the side of the body. By contrast, EMT's Hall, Gonzales, Arthur and Iacone (i.e. all EMTs to inspect the body, said it was tucked under VF's side. Also, the following EMTs said the gun was silver; Iacone and Wacha. Gonzales and Hall were not asked to describe the color. Why would the USPP move the gun (moving the gun and hand to photograph them would constitute tampering with the evidence). I stated my belief that the gun hand was clearly moved, and the pictures also indicate no gun was present.

Third, the position of the gun -- with thumb jammed between trigger guard and trigger -- is odd. How did VF hold the weapon, if VF's possession and discharge of it was voluntary? The powder residue on VF's hand is in a trace line consistent with normal discharge of the weapon according to forensic pathology texts; however, the gun must have been held backwards and thus the line should be on the other side of VF's right hand. How is it possible for VF's hand to have the powder pattern depicted in the photo -- if he held the gun backwards (as he must have given the thumb's jammed position). Also, the pathologists' report stated that powder is observed (by photo only) on the lower face; but, consistent with the large amount of right hand powder residue, the powder should also have been, at least, on the upper face.

Fourth, as previously stated, the evidence does not conclusively establish that the weapon recovered from VF's right hand was, in fact, the fatal instrument. In this regard, (a) the gun apparently was not the property of the Foster family; (b) no prints were found on the weapon (or even partials or smudges); (c) despite supposedly being in VF's mouth, no saliva or blood was recovered from a swab of the barrel of the weapon;¹⁹ (d)

¹⁹A DNA swab indicated human contact on the weapon's barrel consistent with a person of VF's DQ alpha type. However, approximately 6% of humans possess such a DQ alpha type.

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powder residue on the lower face, if any, was not tested; (e) (vaporized lead and fine particulate lead) powder residue on the shirt, while consistent, cannot be conclusively linked to the weapon; (f) (ball smokeless) powder on VF's glasses merely "could have come" from the bullet and casing found; (g) the hand powder residue (smoke) was not found on the glasses (smokeless) (despite being next to each other upon discharge); (h) while one type (ball smokeless) of gun powder residue is found on the glasses, another type (not ball-shaped) of gun powder residue is found in VF's mouth; (i) the same type of (smokeless) powder on the glasses (which is different from that powder on shirt and in mouth) is found on VF's shoes and socks; (j) the fatal bullet is never found; and (k) the exit wound has not been measured to determine if caused by a .38 caliber bullet.

And fifth, additional bullets to the weapon were not found in the Foster home or in the extended Foster family's possession. Indeed, other bullets that could have been fired from the weapon (recently found -- 1 1/2 years after the death), bear different identification markings. VF's fingerprints were not on these bullets. (Where are the remaining bullets -- or, alternatively, where did VF get only two bullets?)

XXI.

Regarding physical evidence, first, latent print analysis of evidence is incomplete. None of the 4 prints found outside of VF's car have been positively identified. The print on the underside of the gun handle has not been identified. The palm print on the torn note has not been identified. The latents of only three individuals have been used for comparison: Simonello, Owen and VF. Against this background, all evidence was processed (and apparently cleaned) by the USPP before being turned over to the FBI. See supra.

Second, "the blonde to light brown head hairs of caucasian origin which are dissimilar to the head hairs in the [] known head hair sample from Vincent Foster" have not been identified. These hairs were found from VF's T-shirt, pants and belt and socks and shoes.

And third, the FBI lab report indicated that semen on VF's boxer shorts was found to be excreted by VF. Greene flatly stated that under no circumstances is semen released upon a suicide caused by a fatal bullet to the head.

Moreover, the swab could merely reflect contact with VF's hand, which contact is not disputed.

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

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