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COMMITTEE ON GOVERNMENT OPERATIONS

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SUMMARY REPORT BY

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Committee on Government Operations

U.S. House of Representatives

on the

DEATH OF WHITE HOUSE DEPUTY COUNSEL VINCENT W. FOSTER, JR.

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BACKGROUND

On February 24, 1994, I began a probe into the death investigation of White House Deputy Counsel Vincent W. Foster, Jr. In part, this investigation was prompted by the numerous conflicting accounts reported by various news agencies.¹

What I have found during our extensive review is that a significant number of those news accounts were simply untrue or otherwise easily explained. In the final analysis, I reached the same conclusion as that of the U.S. Park Police and Special Counsel Robert B. Fiske, Jr.; namely, that on July 20, 1993, Vincent W. Foster, Jr. died from a self-inflicted gunshot wound to the mouth while at Fort Marcy Park (Fairfax County), Virginia.

As part of our probe, my staff or I interviewed emergency medical personnel from Fairfax County, Virginia, law enforcement officials, and other persons involved in the U.S. Park Police investigation of Mr. Foster's death. In addition, the Government Operations Committee was provided access to the theretofore undisclosed U.S. Park Police Report on the Foster death along with photographs taken at both the scene and the autopsy.

I initiated this investigation in my role as Ranking Republican to the Committee on Government Operations. It was conducted under the authority of Rule X of the Rules of the House of Representatives, which charges the Committee on Government Operations with responsibility for conducting reviews of the management and effectiveness of government operations and activities. Also, pursuant to 5 U.S.C. Sec. 2954, executive branch agencies are required to provide "any information . . . relating to any matter within the jurisdiction of the committee" when requested by any seven members of the Committee.

The purpose of this report is to provide a summary of this probe into the investigation of the death of Vincent Foster to my colleagues on the Government Operations Committee and in the House of Representatives. I also hope that this summary report, along with the detailed findings of Special Counsel Robert Fiske, will put to rest any lingering questions regarding the events of July 20, 1993.

FORENSIC EVIDENCE SUPPORTS SUICIDE

Respected Pathology Panel Reviews Physical Evidence

A review of the facts surrounding the death of Mr. Foster must start with (1) the overwhelming amount of forensic evidence supporting the conclusion that he died of a suicide, and (2) the stature of those brought in to review the autopsy results. Contrary to the belief of some commentators, the forensic pathology team ("Pathology Panel") working with Special Counsel Robert B. Fiske, Jr. did not rely solely on the autopsy conclusions of the Northern Virginia Medical Examiner, Dr. James C. Beyer.² Rather, the Pathology

Panel independently concluded that Mr. Foster committed suicide on July 20, 1993 at Fort Marcy Park, Virginia after their own review of the available evidence.³

The determination of the Pathology Panel organized by Special Counsel Fiske was based on independent observations and testing of Mr. Foster's soft palate, a review of the photographs taken at Fort Marcy Park and during the autopsy, a review of FBI lab reports, and an examination of Mr. Foster's clothing. The same or comparable evidence was available to the Pathology Panel as would have been available had they been present at the original autopsy. The Pathology Panel determined that the decedent's body did not need to be exhumed because numerous tissue samples were saved and available for examination.

Summary of Forensic Evidence

- It is indisputable that the gun was fired while in Mr. Foster's mouth. This conclusion is supported by the nature of the wound in the mouth and head as well as the smoke and gun powder residue found in the soft palate of the mouth. The report issued by Special Counsel Fiske discusses this forensic evidence in considerable detail. That being the case, one of two conclusions remain: (1) Mr. Foster committed suicide, or (2) Mr. Foster was forced to put the gun in his mouth and pull the trigger.⁴
- The uncontested evidence supports the conclusion that Mr. Foster placed the gun in his mouth himself. There were no signs of a struggle at Fort Marcy Park, no bruises on Mr. Foster's body or tears in his clothing, and no broken teeth. Moreover, Mr. Foster was not under the influence of any controlled substances or alcohol that may have been used to render him helpless. Lab reports reveal that no alcohol or controlled substances were found in Mr. Foster's bloodstream.⁵
- The conclusion that Mr. Foster committed suicide is also supported by the marks left on Mr. Foster's thumb and forefinger. Consistent with the testimony of the Fairfax County paramedics, Mr. Foster's thumb was trapped by the trigger guard. The remaining mark is consistent with the rebound of the trigger. Because the indentation on Mr. Foster's thumb matches exactly with the rebound of the trigger, it would have been virtually impossible to artificially make such a mark. Similarly, the imprint on Mr. Foster's forefinger is identical to the imprint on the back of the gun. The powder burns also support a finding of suicide.
- Along with select members of my staff, I had complete access to photographs taken at Fort Marcy Park and during the Northern Virginia Medical Examiners autopsy. These photographs support statements by the U.S. Park Police and the Pathologist Panel regarding the location of the body, trigger guard marks, and gunpowder residue.

NO EVIDENCE SUPPORTS MOVEMENT OF BODY

Although the forensic evidence indicates that Mr. Foster committed suicide, several issues not addressed in satisfactory detail by Special Counsel Fiske have been of concern to some commentators. They are addressed below:

Movement of the Foster Body

First, a major concern is the possible movement of Mr. Foster's body after he died. As reported, the amount of blood on and surrounding Mr. Foster's body at Fort Marcy Park was not substantial.

- It is apparent that the lack of a substantial amount of blood was the direct result of the position of Mr. Foster's body at the time of death. Because Mr. Foster was lying on an angle, the blood drained downward instead of encompassing his entire body. However, the paramedics who lifted Mr. Foster's body and placed it in the body bag for transport to the hospital recorded that the body was "drenched with blood" once it became level. By the time the body bag was opened at the hospital, Mr. Foster's shirt and undershirt were covered in blood.
- The bloodstain on the right shoulder of Mr. Foster's shirt is admittedly difficult to explain but not determinative that the deceased was moved after he committed suicide. Any number of facts would explain the bloodstain; perhaps the head was moved by the Park Police or emergency personnel on the scene. Regardless of what caused the bloodstain, however, it cannot be disputed that if the body was moved into the park additional signs would support that conclusion. Mr. Foster's clothing was drenched with blood once he was moved to the hospital. His clothing would have been equally drenched if he had been moved into the park.
- Commentators have also made issue with the lack of skull fragments found at the scene suggesting it also supports the conclusion that Mr. Foster was moved to the park. The scene was not searched for bone fragments, however, until approximately nine months after Mr. Foster's death. Although it is not surprising that numerous objects were found at the scene, such as Civil War artifacts, skull fragments are animal matter. As such, they could have been moved by scavenging animals or even washed away. There was not a large amount of fragments that were missing as the exit wound was only 1 1/4 by 1 inch in diameter. Likewise, the bullet was never found, but one need only visit Fort Marcy Park to understand that the bullet could have fallen anywhere in the park. The fact that it was not located is not determinative in light of the previously discussed forensic evidence.
- The lack of fingerprints on the gun found in Mr. Foster's hand has also been used to suggest that he did not fire the weapon or that his body had been moved and the

gun was later placed in his hand. Pathologists have suggested, however, that fingerprints are not always identifiable. Other factors, such as the amount of oils on the decedent's fingers, the humidity, and the temperature may result in fingerprints not remaining on an object.

Statements by "CW" Contradicted or Easily Explained

Recent statements of the so-called Confidential Witness ("CW") appears to be in question. CW is the reference to the man driving a white van who initially found Mr. Foster's body in Fort Marcy Park around 6:00 p.m. He has asked that his identity be kept confidential.

A comparison of CW's statements to FBI agents working for Special Counsel Fiske, as reflected in the Fiske report, and those statements given under oath to Representatives Dan Burton, John Mica and Dana Rohrabacher reveal that the substance of each statement is very similar, if not identical.

-- In both instances, CW insists that the palms of Mr. Foster were facing upward and there was no gun in Mr. Foster's hand when CW found the body.⁶ However, in both instances, CW acknowledged that from the position he was standing, it was possible that if Mr. Foster had a gun in his hand, CW could have missed it. Special Counsel Fiske's report states, "CW acknowledges that, because of his position at the top of the berm and the heavy foliage, there could have been a gun in the man's hand that he did not see."⁷

CW reiterated this point in his sworn statement when he acknowledged that "a trained policeman standing at the top of the hill that [sic] even when he [the policeman] was told he [Mr. Foster] had a gun in his hand still did not see it [the gun]. I cannot . . . say, I would have seen it [the gun]."⁸ Because my staff and I had access to photographs taken at Fort Marcy Park, we carefully reviewed a photo taken from roughly the same location that CW claims to have stood. Because of the dense foliage that was clearly seen in the picture, Mr. Foster's hands could not possibly have been seen without moving to his side. CW admits that he did not move to Mr. Foster's side to examine Mr. Foster's hands.

-- Questions have also been raised about the alleged existence of a wine cooler bottle near Mr. Foster's body and a stain on Mr. Foster's shirt which appeared to be a combination of wine and vomit. These assertions were made by the CW. The lab reports conducted on Mr. Foster's shirt reveal that the stain was purely blood and no traces of wine or vomit were found. The U.S. Park Police asserts that no wine coolers were found near Mr. Foster's body, but wine coolers were in an automobile located in the parking lot but not belonging to Mr. Foster. Additionally, no alcohol was found in Mr. Foster's bloodstream.

- Questions have been raised regarding a discrepancy between CW's recollection of the various contents of the two cars located in the parking lot at Fort Marcy Park the afternoon of Mr. Foster's death. All parties involved agree that there were two cars in the parking lot -- one belonged to Vincent Foster and was grey in color and the other was a white Honda. According to CW, inside the white Honda were two wine coolers and a jacket that matched the pants CW saw on Vincent Foster.

In contrast, the U.S. Park Police investigation (at the time of the death) and Special Counsel Fiske's investigation (nine months later) both determined, based on information from the owner and passenger of the white Honda, that the wine coolers were in fact in their car. As well, no jacket was in their car despite the testimony of the CW. The U.S. Park Police found the jacket matching Mr. Foster's pants in the car belonging to Mr. Foster.

- Also of concern is the statement by CW that the ground at the bottom of the berm where the body was found was trampled and worn. It would be impossible to determine, however, whether the ground was trampled by the footsteps of Mr. Foster pacing back and forth or by the footsteps of others.

Other Evidence of Marginal Value

- Several commentators have questioned the origin of carpet fibers found on Mr. Foster's body or clothes. Although the origin of those fibers and hair have not been substantiated, a determinative finding of the origin is not practical nor necessary in light of other overwhelming forensic evidence. Specifically, carpet fibers may be transmitted from almost any source. It would be impossible to determine when or where the carpet fibers found on Mr. Foster's clothing would have originated.
- Rumors have also arisen concerning a blond hair found somewhere on Mr. Foster's body, possibly on his undershorts. Prior to beginning the autopsy, Mr. Foster's clothing was removed and commingled together. Therefore, it is impossible to determine which piece of clothing the hair was originally attached.

The blond hair found on Mr. Foster could have come from anyone. Possibly, the hair belonged to his daughter who has long blond hair. The day of his death, Mr. Foster was driving the car typically driven by his daughter. Moreover, the morning of his death, Mr. Foster drove his daughter to work, leaned over and kissed her good-bye -- an act whereby a hair could have easily been transmitted. The hair could have also belonged to anyone of the guests at the swearing-in ceremony of FBI Director Louis Freeh which took place in the Rose Garden the day of Mr. Foster's death. Because the forensic evidence so conclusively points to a suicide, the origin of the blond hair is hardly relevant.

- Another area of concern seems to be the existence of semen found on Mr. Foster's undershorts. Those who suggest that the presence of semen demonstrates that a sexual liaison occurred on the afternoon of Mr. Foster's death ignore the testimony of medical experts who suggest that it is not uncommon for an individual, at the time of death, to defecate, urinate, or even ejaculate.
- Finally, some have questioned why Mr. Foster's body was not exhumed. Based upon the uncontroverted forensic evidence coupled with the pain such a procedure would understandably cause the Foster family, it was determined that Mr. Foster's body need not be exhumed. As suggested above, the Pathology Panel reasonably determined that sufficient evidence was preserved to allow them to conduct their own independent review.

CONCLUSION

I must agree that not every question regarding the death of White House aide Vincent Foster has been definitively answered. Nonetheless, I have reached the conclusion that all available facts lead to the undeniable conclusion that Vincent W. Foster, Jr. took his own life in Fort Marcy Park, Virginia on July 20, 1993.

Perhaps the unexpected death of any high government official will needlessly bring cries of conspiracy from many in our society. That is unfortunate. The death of Mr. Foster has been reviewed in detail by the experienced professionals at the U.S. Park Police, who were performing their tasks under extremely difficult circumstances. Special Counsel Robert Fiske took that investigation one step further by establishing a panel of noted forensic pathologists who reviewed all of the available evidence and reached the same conclusion as that of the Park Police. I reviewed the work of these two organizations and, with this report, support their findings.

Accordingly, this report closes the Government Operations Committee minority investigation on this stage of the death of Vincent Foster. The focus of this probe will now turn to the second portion of the investigation dealing with the handling of Mr. Foster's documents and the potential obstruction of justice by White House staff in the days following Mr. Foster's death.

My special thanks to officials of Fairfax County, Virginia, the U.S. Park Police, and the Office of Special Counsel Robert B. Fiske, Jr. for their assistance in conducting this review.

ENDNOTES

1. Despite an early determination by the U.S. Park Police that Vincent Foster had committed suicide, numerous news stories began to appear in early 1994 suggesting that the Park Police did not thoroughly perform their job or that the White House staff had improperly impeded the police investigation. These articles include:
 - On January 13, 1994, Washington Post reporter Michael Isikoff reports that DoJ and FBI agents have begun retracing the original handling of the Foster probe in a search for evidence that would shed light on his state of mind at the time of his death. Isikoff further reports that this effort began because the investigators were concerned that top White House aides may have hindered the U.S. Park Police from obtaining key evidence.
 - On January 27, 1994, the New York Post's Chris Ruddy reports that some of the first people to discover the body of Foster have raised new questions about the conclusion that it was a suicide. According to Ruddy, "The questions involve the position of Foster's body; the fact that the gun was still in Foster's hand and had no blood on it; the small amount of blood on and near the body; and the swiftness with which the death was declared a suicide."
 - In late January, 1994, the Wall Street Journal filed suit in U.S. District Court to "force the release of reports on White House lawyer Vincent Foster's death. The DoJ had earlier planned to release these reports.
 - On February 3, 1994, the New York Post reports that former FBI Director William Sessions said that the FBI "was kept out of the investigation into Vincent Foster's alleged suicide because of a 'power struggle within the FBI and the Department of Justice'". Sessions "said the FBI did not get involved in the probe for political reasons."
 - On February 4, 1994, ABC News's Jim Wooten reports that Secret Service records "show that the day after Foster died Nussbaum did take a photograph from the office and one of his assistants returned a trash bag previously removed from the office."

2. The autopsy was performed by Dr. Beyer. The autopsy was authorized by Dr. Donald Haut of the Office of the Chief Medical Examiner, Northern Virginia District, Commonwealth of Virginia. The Medical Examiner's Certificate, better known as a death certificate, is signed by Dr. Haut and lists the cause of death as "self-inflicted gunshot wound mouth to head."

3. The Forensic Pathologist Panel included four experienced and respected forensic pathologists. They include:
- (a) Dr. Charles S. Hirsch - Chief Medical Examiner for the City of New York.
 - (b) Dr. James L. Luke - Forensic Pathology Consultant, FBI Investigative Support Unit, FBI Academy.
 - (c) Dr. Donald T. Reay - Chief Medical Examiner for King County, Seattle, Washington.
 - (d) Dr. Charles J. Stahl - Distinguished Scientist and Armed Forces Medical Examiner, Armed Forces Institute of Pathology, Washington, D.C.

No evidence has been presented which would challenge the integrity of these experts.

4. Several commentators have argued that Mr. Foster's body, after he died, was moved to Fort Marcy Park. This issue will be addressed below.
5. Small traces of an anti-depressant, which Mr. Foster was known to have taken, was found in Mr. Foster's bloodstream.
6. Fiske report at 30; Deposition at 43.
7. Fiske report at 30.
8. Deposition at 19.