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[Updated October 18, 1997, to include Ken Starr's Report]

WILL STARR FIND A SMOKING GUN IN THE VINCENT FOSTER CASE?

Summary:

Former Independent Counsel Robert Fiske wrote in his report on the death of Vincent Foster that Mr. Foster's widow, Lisa, said that the official death gun "looked similar to one that she had seen in their home" although official government documents show she had not made any valid identification of the official death gun. These documents suggest that persons conducting the Fiske investigation deliberately tried to manufacture a misleading gun identification from Mrs. Foster in order to make it appear that Mr. Foster owned the official death gun prior to the day he died.

More specifically, the documents show that prior to the death, Mrs. Foster knew Mr. Foster had a silver-colored handgun. Yet the official death gun was black and several days after the death Mrs. Foster could not identify the official death gun from a photo because the gun depicted was not silver-colored. However, ten months later she was shown a gun she said "may be the silver gun" that was Mr. Foster's. Mr. Fiske used this statement in his report, without mentioning any color, to make it appear she gave a valid identification of the official black death gun.

Mr. Fiske's use of Mrs. Foster's statement was clearly deceptive. If she was shown a silver-colored gun at the later interview, then obviously she failed to give a valid identification of the official black death gun. Likewise, if she was shown the official black death gun at this later interview and identified it as being silver-colored, then equally obviously, she failed to give a valid identification of the official black death gun. No matter what color gun Mrs. Foster was shown at this later interview, given her response, it was clearly deceptive for Mr. Fiske to use her response as if it were a valid identification of the official black death gun.

According to Kenneth Starr, Mrs. Foster was unable to tell black from silver and she described a black gun as silver in front of her attorney, Fiske's deputy and at least two FBI agents, who all failed to do anything about her mistake or note it in the record.

Mr. Starr completely failed to explain or justify Mr. Fiske's use of Mrs. Foster's invalid gun identification.

Mr. Starr completely failed to prove that Mrs. Foster was shown the official black death gun ten months after the death. His failure to provide a credible and innocent explanation for the documented facts provides additional evidence that persons conducting the Fiske investigation deliberately tried to manufacture a misleading gun identification from Mrs. Foster by showing her a silver gun in May, 1994, while falsely telling her it was the official death gun.

By Allan J. Favish*

A recently filed federal lawsuit alleges a government conspiracy to obstruct justice in the investigation of former White

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House counsel Vincent Foster's death. There is substantial evidence supporting at least one of the suit's allegations.

Although former Independent Counsel Robert Fiske concluded in June, 1994 that Mr. Foster committed suicide in Virginia's Fort Marcy Park on July 20, 1993, the investigation was reopened by Mr. Fiske's successor, Kenneth Starr.

Charges of a cover-up in the Foster case rose to a new level on November 12, 1996, when a federal judge in Washington, D.C., unsealed a lawsuit filed by a witness in the case named Patrick Knowlton, who was in Fort Marcy Park the afternoon of Mr. Foster's death. His lawsuit alleges obstruction of justice by FBI agents detailed to the Office of the Independent Counsel under both Mr. Fiske and Mr. Starr.

The lawsuit also alleges that the Fiske Report makes false and misleading statements in furtherance of a conspiracy to obstruct justice in the case, including Fiske's statement about Mrs. Foster's alleged identification of Mr. Foster's alleged suicide weapon. (Complaint in *Patrick Knowlton v. United States*, Civil Action No. 96-2467 (NHJ), filed in U.S. District Court in Washington, D.C., at par. 24.)

The official public evidentiary record in the Foster case provides substantial evidence about the gun identification issue that will aid Mr. Knowlton. The documents involving the gun, taken alone, do not conclusively prove murder or that Mr. Foster died in a place other than Fort Marcy Park. But they show that the gun found in Mr. Foster's hand was black or dark-colored and that Mrs. Foster made an uncertain identification of a gun that was based either on her being shown a silver-colored gun, not the official black death gun, or on her being shown the official black death gun and her perceiving it as silver-colored. In either case, her identification was invalid and completely improper for use by Mr. Fiske to support his conclusion.

The documents and Mr. Knowlton's lawsuit raise questions about why it appears Mrs. Foster was shown a silver-colored gun if the official death gun was black; and if she was shown the official black death gun, why she believed it was silver-colored; and why, in any case, did Mr. Fiske use her uncertain identification as if it were valid?

These documents, ignored by the dominant media, became public as a result of hearings in 1994 by the Committee on Banking, Housing, and Urban Affairs of the U.S. Senate, the so-called "Whitewater Hearings." (Hearings Relating to Madison Guaranty S&L and the Whitewater Development Corporation--Washington, DC Phase, S. Hrg. 103-889.) Part of these hearings consisted of an investigation of the Foster death. The first two volumes of those hearings, as published by the U.S. Government Printing Office, contain official copies of documents created by the U.S. Park Police and the FBI in the course of their Foster investigation.

The documents show that no Park Police officer in the official public record who claims to have seen the gun at the park describes it as being anything other than black or dark-colored and no Park Police officer publicly describes it as being silver-colored. On July 21, 1993, the day after Mr. Foster's death, U.S. Park Police Investigator John Rolla wrote in his report that the gun found in Mr. Foster's hand was "dark-colored." (Supplemental Criminal Incident Record, S. Hrg. 103-889, Vol. 1, p. 150.) He said the same thing on July 29, 1994, while testifying under oath at the Senate Banking Committee's Whitewater hearings. (Testimony of John Rolla, S. Hrg. 103-889, Vol. 1, p. 79.) In his deposition before the Committee on July 21, 1994, he testified that he told Mrs. Foster the gun found with her husband was "a black-colored revolver, .38 revolver." (Deposition of John Rolla, S. Hrg. 103-889, Vol. 1, p. 449.) Park Police Officer Peter Simonello, also a death-scene witness, wrote in his report on July 26, 1993, that Mr. Foster had his hand on a "black revolver." (Mobile Crime Lab Report Supplement, S. Hrg. 103-889, Vol. 2, p. 2160.)

Black and white photos of the official death gun taken by the Park Police show it to be totally black or dark. (S. Hrg. 103-889, Vol. 2, pp. 2407-2412.) A color photo allegedly showing the official death gun in Mr. Foster's hand, broadcast by ABC-TV News in March of 1994 and printed in *Time's* March 18, 1996, issue, shows a gun all black or very dark in color--no silver.

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Yet, when Mrs. Foster was interviewed nine days after the death by the Park Police, not the FBI, "[s]he was presented with a photograph of the weapon found with Mr. Foster's body, but was unable to identify it," according to Park Police Detective Peter Markland's August 5, 1993, written report. (Supplemental Criminal Incident Record, S. Hrg. 103-889, vol. 2, p. 2153.) The Park Police's handwritten interview notes say: "Not the gun she thought it must be. Silver six gun, large barrel." (S. Hrg. 103-889, vol. 2, p. 2227.)

At this point, apparently Mrs. Foster knew her husband had a *silver-colored* handgun prior to his death, but not a black or dark-colored handgun and since she was apparently shown a photograph of a black or dark-colored gun, she was "unable to identify" the gun in the photo because it was not silver-colored.

In May of 1994, FBI agents working for Mr. Fiske interviewed Mrs. Foster, showed her an actual gun, not a photo, and asked her if she could identify the gun. Stating that she helped Mr. Foster pack a silver-colored gun for the move to Washington, according to the FBI's notes of the interview, she said that the gun shown to her at the interview "may" be that silver-colored gun:

LISA FOSTER then examined a revolver which had been brought to the interview by the interviewing agents. FOSTER examined the revolver, which had also been found at Fort Marcy Park on July 20, 1993, and stated that she believed it may be a gun which she formally saw in her residence in Little Rock, Arkansas.

....

LISA FOSTER believes that she may have seen the handgun which she examined previously during the interview at her residence in Washington. LISA FOSTER recalls that as she was packing her belongings in Little Rock in preparation for coming to Washington, D.C., she found a handgun inside a travel trunk which had been packed by FOSTER prior to his departure for Washington. Specifically, as LISA FOSTER was packing in Little Rock, she came across a silver-colored gun, which she then packed in with her other property.

....

LISA FOSTER believes that the gun found at Fort Marcy Park may be the silver gun which she brought up with her other belongings when she permanently moved to Washington.

(FBI FD-302 Report of Interview with Elizabeth Braden Foster, S. Hrg. 103-889, Vol. 2, pp. 1633, 1646-1649.)

Notice the contrast between the two attempts to get Mrs. Foster to identify whatever gun was being shown to her. Nine days after the death Mrs. Foster was unable to identify "the weapon found with Mr. Foster's body"--presumably the black or dark official death gun--from a photo shown to her by the Park Police because it didn't show the silver-colored gun she expected to see. Yet when Mr. Fiske's FBI agents showed her a gun ten months later and apparently told her it was the gun found with Mr. Foster in the park, she gave an uncertain identification of the gun shown to her as one that "may be the silver gun which she brought up" to Washington--an identification that only makes sense if she was, in fact, shown a silver-colored gun at this interview.

It is important to recognize that Mrs. Foster's mention of a gun that "may" be Mr. Foster's silver gun necessarily refers to the gun she examined at the May 1994 interview, not some other gun. According to the notes of that interview, she was shown a gun that was "brought to the interview by the interviewing agents" and "which had also been found at Fort Marcy Park on July 20, 1993." It was this gun that was "examined" by Mrs. Foster. There is no evidence that she was asked to view more than one gun at that interview. Therefore, when the FBI reports that Mrs. Foster "believes that the gun found at Fort Marcy Park may be the silver gun which she brought up" to Washington, the FBI's reference to "the gun found at Fort Marcy Park" describing Mrs. Foster's identification, coupled with the FBI's description of the gun it showed her as the gun "found at Fort Marcy Park," necessarily means that she was referring to the gun shown to

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her during the interview as being silver-colored.

Mr. Fiske ignored most of this in his June 1994 report, writing only that "Lisa Foster stated that the gun looked similar to one that she had seen in their home in Arkansas and that she had brought to Washington." (Report of the Independent Counsel In Re Vincent W. Foster, Jr. (Fiske Report, p. 38), S. Hrg. 103-889, Vol. 1, p. 213.) However, Mr. Fiske failed to mention his report was based on Mrs. Foster being shown a gun she believed was silver-colored--a description incompatible with the official black death gun depicted in the official photos, testimony and reports. Mr. Fiske also failed to mention that when she was shown a photo nine days after the death by the Park Police, presumably of the official black death gun, she could not identify the gun in the photo because it was not silver-colored. Mr. Fiske also failed to mention that in May 1994, Mrs. Foster either was shown a gun whose color was different from that of the official black death gun, or was shown the official black death gun and misperceived its color so as to render her identification invalid.

Unlike the Fiske Report, which does not mention a gun color, the Senate Banking Committee's January 1995 report on the Foster death expressly mentions a single gun color--silver. The Committee's report implies the official death gun is silver-colored and that Mrs. Foster identified a silver-colored gun. Inexplicably, however, the Committee failed to reconcile its report with the official documents, instead writing:

Mrs. Foster examined the revolver recovered from Mr. Foster's hand and stated that it may have been a gun which she had seen in her Little Rock residence.[fn.]

[fn.] Mrs. Foster had seen a silver colored handgun inside a travel trunk when she was packing for the family's move to Washington. . . . While unpacking the gun in Washington, Mrs. Foster saw the gun and commented on it. . . .

She believed the gun found in Fort Marcy Park may be the gun which she brought to Washington with the rest of the family's belongings.

(Madison Guaranty S&L and the Whitewater Development Corporation--Washington, DC Phase, Report of the Committee on Banking, Housing, and Urban Affairs, United States Senate, on the Inquiry into the U.S. Park Police Investigation of the Death of White House Deputy Counsel Vincent W. Foster, Jr., S. Rept. 103-433, Vol. 1, p. 30.)

Thus, the Senate report leaves the reader with the impression that the official death gun was silver-colored and that Mrs. Foster made an uncertain identification of it as being Mr. Foster's silver-colored gun. The Senate report failed to mention that the official death gun is black as depicted in the Park Police photographs, the color photograph broadcast by ABC-TV, and in official reports and testimony by Park Police personnel. The Senate report simply rubber-stamped the Fiske Report and continued the deception.

While it is possible that the FBI showed Mrs. Foster the official black death gun ten months after the death and she misperceived it as silver-colored, this explanation is nonsensical.

First, there is no evidence Mrs. Foster is unable to tell black from silver. In fact, there is evidence that her ability to discriminate between different colors was sophisticated. In her FBI interview she described the color of the family's Honda as "taupe or grayish" and as being "a light color." (FBI FD-302 Report of Interview with Elizabeth Braden Foster, S. Hrg. 103-889, Vol. 2, p. 1642.)

Second, according to the FBI's notes, those attending the interview included Mrs. Foster's attorney James Hamilton, Mr. Fiske's deputy Roderick Lankler and at least two FBI agents. (FBI FD-302 Report of Interview with Elizabeth Braden Foster, S. Hrg. 103-889, Vol. 2, p. 1633.) If she did misperceive the color, it is virtually certain someone would have called this obvious error to her attention or noted it in the record. The publicly available documents do not

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reveal any such misperception by Mrs. Foster.

Moreover, any identification of a black gun as silver-colored by Mrs. Foster should not have been used by Mr. Fiske as if it were a valid identification.

When interviewed by the author on February 5, 1997, Park Police officers stood by their official statements that the official death gun was black. Mr. Rolla said, "The gun was black." When asked to explain why the FBI reported that Mrs. Foster believed the gun shown to her by the FBI was silver-colored, he said "ask the FBI ... ask Fiske ... ask Lisa." Mr. Simonello said, "I took the gun out of his [Foster's] hand" and "the gun looked black." When asked if the gun could be described as gray or silver, he said, "no." Asked to explain Mrs. Foster's reported description of the gun shown to her by the FBI, he said, "I don't understand that myself."

Mr. Simonello said that the photo broadcast by ABC-TV News and printed in *Time* magazine is the death-scene gun. He said it was one of the Polaroid photos that were taken.

Mr. Simonello said that until the author showed him the FBI's typewritten notes of the interview with Mrs. Foster he was unaware of Mrs. Foster's belief that the gun shown to her by the FBI in May 1994 was silver-colored.

The public record does not support speculation that Mrs. Foster misperceived a black or dark gun as silver-colored. Instead, the weight of the evidence makes it much more likely that the official death gun was black and Mrs. Foster could not identify a photo of the official death gun because she did not recognize the gun as Mr. Foster's silver-colored gun. The weight of the evidence also makes it much more likely that she did not identify any gun as being Mr. Foster's until she was shown a silver-colored gun by Mr. Fiske's FBI agents; and it was this identification Mr. Fiske used in his report to make it appear she had identified the official black death gun.

Whether somebody deliberately mislead Mrs. Foster into identifying a gun that was not the official death gun and then used her identification to make it appear she had identified the official death gun, is a valid question that Mr. Starr should answer. Did Mr. Fiske, his staff and/or his FBI agents trick Mrs. Foster and write a deceptive report? Is this the "smoking gun" in an alleged cover-up in the Foster death investigation?

Reasonable speculation is that somebody in the FBI or Mr. Fiske's office deliberately tricked Mrs. Foster into identifying a gun as possibly being the death gun so that Mr. Fiske could have some language in his report that linked the official death gun to the Foster family prior to the day Mr. Foster died. This is because a finding of suicide is generally more plausible in the case of a gun owner when the gun found in the hand of the deceased was owned by the deceased. A gun found in the hand of a deceased gun owner that has no previous link with the deceased raises suspicions of staged suicide and murder as opposed to real suicide.

Given Mrs. Foster's reaction to the photo of the black gun nine days after the death, Mr. Fiske easily could have known that to get anything close to an identification of a weapon from Mrs. Foster ten months later, she would have to be shown a silver-colored gun. The evidence suggests this was done and Mr. Fiske wrote a description of Mrs. Foster's "identification" that omitted any evidence of the trick apparently played on her.

This deception regarding Mrs. Foster's alleged identification of the official death gun is supported further by the FBI's notes of its interview with Mr. Foster's nephew, Lee Foster Bowman. According to the FBI's notes, Mr. Bowman went hunting over ten times with his grandfather and was able to describe his grandfather's gun collection--which was later inherited by Mr. Foster--in significant detail. According to those notes:

BOWMAN said he knew the difference between a pistol and a revolver.

....

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BOWMAN was shown the .38 caliber colt revolver believed to have been used by VINCENT FOSTER, JR. on July 20, 1993 to kill himself. BOWMAN was asked if he recognized this weapon. BOWMAN said, "The gun does not ring a bell particularly". BOWMAN said the ".38 caliber" nature of the weapon was familiar, but that he didn't remember the black handle and the dark color of the metal. He indicated that he was familiar with the cylinder and barrel portion of this size or caliber of a weapon except for the color of the metal.

(FBI FD-302 Report of Interview with Lee Foster Bowman, S. Hrg. 103-889, Vol. 2, pp. 1806-07.)

Mr. Fiske failed to mention Mr. Bowman's statements about the gun color in his report and completed his report *before* Mr. Bowman's FBI interview had been transcribed from handwritten notes to typewritten notes. The Bowman interview occurred June 28, 1994. The Fiske Report is dated June 30, 1994. (Report of the Independent Counsel In Re Vincent W. Foster, Jr., S. Hrg. 103-889, Vol. 1, p. 181.) The typewritten version of the FBI's Bowman interview notes was transcribed July 5, 1994.

If Mr. Starr is going to issue an honest and thorough report about the Foster death, he will have to answer several important questions.

First, if Mrs. Foster was shown a silver-colored gun ten months after the death under conditions implying to her that it was the official death gun, when the official death gun clearly is not silver-colored, why was this done?

Second, if Mrs. Foster was shown the official black death gun ten months after the death and misidentified it as possibly being Mr. Foster's *silver-colored* gun, why did Mr. Fiske present her erroneous identification as a valid identification in his final report?

Third, no matter what color gun was shown to Mrs. Foster ten months after the death, given that she identified it as silver-colored and the official death gun was black, why did Mr. Fiske present her clearly invalid identification as a valid identification in his final report?

Fourth, why would persons conducting the Fiske investigation engage in such deception and obstruction of justice if the Foster death was merely a suicide in Fort Marcy Park and not a murder or suicide elsewhere?

Mr. Starr also should explain why the Senate Banking Committee allowed Mr. Fiske to get away with his deception and why the Committee compounded the deception by clearly implying that the official death gun was silver-colored and was validly identified by Mrs. Foster when the official death gun was black and Mrs. Foster never gave a valid identification of it, no matter what color gun was shown to her by the FBI in May 1994.

Many in the dominant media may proclaim the lack of a "smoking gun" in the Foster death case. Of course, they would be correct regarding their own coverage of the case. But is that because the "smoking gun" doesn't exist or simply because they fail to write about it?

Now that Mr. Starr's report was made public October 10, 1997, by the Special Division of the United States Court of Appeals for the District of Columbia Circuit, many people on the Internet, if not in the dominant media, are looking to see how he explains this smoking gun.

Starr confirms that the official death gun was black. He says "the descriptions provided by the first two persons to observe the gun, as well as of numerous others, are consistent with the gun retrieved from the scene and depicted in the on-the-scene Polaroids." Starr says that these two persons "saw black or dark revolver in hand" and "saw black gun in hand." (Starr Report, at 79 n. 229 and accompanying text.)

Starr notes that nine days after the death, "Mrs. Foster was shown a photograph of the gun retrieved from the scene and, according to the Park Police interview report, was unable to identify it from the photograph." (Starr Report, at

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81.) However, Starr fails to mention that one of the reasons given by Mrs. Foster for her inability to identify the gun in the photo was that the gun in the photo was not silver.

Starr says that on May 9, 1994, Mrs. Foster "was shown the actual gun that was recovered," i.e., the official black death gun. (Starr Report, at 81.) However, Starr fails to mention that if this is true, then at that interview she called a black gun "silver."

Starr says that the OIC showed Mrs. Foster the official black death gun in November of 1995 and she said it was the gun she previously described as silver. (Starr Report, at 80-81.)

Starr fails to explain why Mrs. Foster previously described a black gun as silver, except to say that at the November 1995 interview, Mrs. Foster "said she seemed to remember the front of the gun looking lighter in color when she saw it during the move to Washington." (Starr Report, at 81-82.)

Starr fails to mention that if it is true that Mrs. Foster remembered "the front" of a black gun as being so light in color she described the gun as silver, then this could explain why she did not recognize the black gun when shown a photograph of it on July 29, 1993.

But this CANNOT explain why she would have *described* the black gun as silver when the actual black gun was supposedly shown to her on May 9, 1994. Starr fails to explain why Mrs. Foster supposedly called a black gun "silver" on that date.

More significantly, Starr fails to mention that when Mrs. Foster was supposedly shown the black death gun on May 9, 1994, this was done in her attorney's office in front of at least two FBI agents, her attorney James Hamilton, and Fiske's deputy Roderick Lankler. Starr fails to explain why any of these (at least) four professional investigators failed to say anything about the fact that Mrs. Foster called a black gun "silver" in their presence. Did the black gun also look silver to them?

Starr fails to give any indication that any of the people in that room with Mrs. Foster on May 9, 1994, were interviewed or examined under oath about that episode.

Starr fails to explain how the "front" of the black death gun could have looked "lighter in color" to Mrs. Foster--so light that she called the gun silver.

Starr fails to explain why the same black gun that supposedly looked "silver" to Mrs. Foster in May of 1994, looks darker in color to her in November of 1995.

Starr fails to produce the documentation related to the November 1995 interview and fails to mention who was present.

Starr fails to explain why Fiske used Mrs. Foster's May 9, 1994, description of a black gun as being silver as if it were a valid identification of a black gun.

Starr fails to explain why the black gun that supposedly "seemed" to look "lighter in color" to Mrs. Foster prior to July 29, 1993, looked darker in color to her on July 29, 1993, when she saw the gun in a photograph--so much darker that she said it was not the "silver" gun she thought Vince owned.

Starr fails to explain why Mrs. Foster qualified her statement by saying she "seemed" to remember a lighter color for the front of the gun, as opposed to an unqualified recollection of the gun's color.

Starr's failure to explain these numerous issues raises the question of whether his report is deliberately false when it says that on May 9, 1994, Mrs. Foster "was shown the actual gun that was recovered," i.e., the official black death

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gun. (Starr Report, at 81.) Even Fiske did not make such an explicit claim. Was Mrs. Foster shown the official black death gun on May 9, 1994? Or was she shown a silver gun (perhaps the real silver gun she brought from Arkansas) and falsely told that it was the official death gun, in order to get some sort of a gun identification from her? Is Starr telling the truth on this point?

If Starr is going to defend his position that Mrs. Foster was shown the official black death gun on May 9, 1994, he must explain all these issues, yet, he failed to do so.

One way to explain all these issues is to conclude that Mrs. Foster was shown a silver gun on May 9, 1994, and there never was anything wrong with her ability to tell black from silver.**

* *Allan J. Favish*

Attorney at Law

18645 Hatteras St., #289

Tarzana, CA 91356-1802

Voice & Fax: (818) 343-9095

America Online: AllanF8702

Direct Internet: AJFavish@worldnet.att.net

Web Site: <http://members.aol.com/AllanF8702/page1.htm>

** To the best of my knowledge, independent researcher Michael Rivero was the first to recognize this apparent tricking of Mrs. Foster and the deception about it in the Fiske Report. Some of these documents, and others, are available at Mr. Rivero's web site (<http://www.accessone.com/~rivero/>). Another independent researcher, Hugh S. Sprunt (HSprunt@aol.com) also has investigated this area of the Foster case as well as many other areas. Mr. Sprunt's report on the Foster case is essential reading for anybody interested in the Foster case and is available at David Sussman's web site (<http://www.c-i-w.com/>).

The two professional reporters who have written the most about the Foster case are Christopher Ruddy of the *Pittsburgh Tribune-Review* and Ambrose-Evans Pritchard of the *London Sunday Telegraph*. Most of their articles can be obtained from their papers' respective web sites.

The evidentiary area explained in this article was the subject of discussion between Mr. Favish and *Blood Sport* author James Stewart when Stewart was a guest on Ray Briem's talk radio show on Glendale, California's KIEV 870-AM. As shown in the transcript of that conversation, Mr. Stewart was ignorant about this evidentiary area and failed to deal with it properly. Prior to this conversation, Mr. Stewart had a similar discussion on the Diane Rehm radio talk show. The transcript of that discussion is at J.C. Huntington's web site.

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ABC NEWS
EXCLUSIVE



NATIONAL PARK SERVICE

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

AVENUE CASE #

INVESTIGATOR

United States Park Police

Month Year Day Year Hour Minute Case Incident Number
07 1993 20 18 30 03101502

Category of Incident

Death Investigation

RESULTS OF INVESTIGATION

NOTIFICATION:

On 07/20/93 at approximately 1815 hours while monitoring channel 2. I heard scooter 261, Off. K. Fornhill, request C.I.B. to respond to Ft. Marcy for a dead body. I advised communications that myself, Inv. Braun and Inv. [] would be responding. At approximately 1835 hours we arrived at Ft. Marcy.

PRELIMINARY INVESTIGATION:

Upon arrival we met with Lt. Gavin, Off. [Ferstle] car 211, Off. [Spetz] car 213, and Sgt. Edwards, car 202. After speaking with the officers on the scene, it was determined that we had a white male with an apparent self-inflicted gunshot wound to the head. Off. [Ferstle] advised that the subject still had the gun in his hand. Off. [Ferstle] advised that Off. Fornhill was the first unit on the scene with Fairfax Fire and Rescue. Fairfax Fire felt for a pulse in the carotid artery and got none. The body was not moved.

Parked in the fourth spot from the entrance, I observed a 1989 grey Honda Accord, 4 door, with Arkansas license plates [RCN-504] expiration 10/93. The registration returned to FOSTER, Jr., Vincent, at [5414 Stonevall Rd.] Little Rock, Arkansas 72207. Off. [Ferstle] stated that he believed that this vehicle may belong to the decedent. Off. [Ferstle] stated that the suit coat on the front seat appeared to match the pants of the decedent. I observed that the vehicle was unlocked and that there was a dark blue suit jacket with blue pin stripes and a blue tie on the front passenger seat.

SCENE:

The decedent was located north of the parking lot, approximately one quarter mile at the second cannon. I observed the decedent to be a white male, approximately 45 to 50 years of age with dark hair, graying, and slightly receding. The decedent was laying face up on an embankment in front of the second cannon. The decedent's head was facing east and his feet facing west. I observed blood in his nose and mouth area, on his right shoulder area and underneath his head. The blood on the ground and on his shirt appeared to still be wet. There was no blood spatter on the plants or trees surrounding the decedent's head. I observed a dark colored revolver in his right hand. The decedent's right thumb was still in the trigger guard. After lifting both arms of the decedent, I observed lividity but no rigor mortis.

Form with fields for Warranted, Latents, Photos, Investigator Notified, Status, Reporting Officer, Investigator, Supervisor, Date, and Page count.

CONFIDENTIAL

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/16/94

ELIZABETH BRADEN FOSTER was interviewed in the offices of her attorney, JAMES HAMILTON, who is associated with the law firm of Swidler & Berlin, 3000 K Street, N.W., Washington, D.C. ELIZABETH FOSTER, who is also known as LISA FOSTER, is the widow of VINCENT W. FOSTER, JR., former Deputy Counsel to the President, who will be referred to as FOSTER in the remainder of this report of interview. Also participating in the interview of LISA FOSTER was RODERICK C. LANKLER, Deputy Counsel, Office of the Independent Counsel, Washington, D.C. After LISA FOSTER was advised of the identities of the interviewing agents and the nature of the interview, she furnished the following information:

LISA FOSTER arrived in Washington, D.C. to set up a permanent residence for her family on June 5, 1993. After her arrival, she and FOSTER went jogging along Rock Creek Parkway in the vicinity of Dumbarton Oaks. FOSTER appeared to LISA FOSTER to be jogging at his normal pace that day. After they finished jogging, LISA FOSTER and FOSTER went to a small neighborhood store, purchased orange juice and bagels, and went home and had breakfast. LISA FOSTER recalls that day as being a day of fun and one of their best days together in recent times.

When LISA FOSTER and FOSTER still lived in Arkansas, FOSTER used to jog approximately three to four times per week. LISA FOSTER also began to play tennis at that time. LISA FOSTER and FOSTER would frequently go to a nearby track where each of them would jog at his or her own pace.

When LISA FOSTER saw FOSTER after she arrived in Washington, D.C., she believed that he appeared awful. She believed that most of the weight which FOSTER had lost by that time had been lost prior to his arrival in Washington, D.C.

On June 8, 1993, LISA FOSTER noticed that FOSTER was emotionally down and was slumped in his chair just as his father had been when his father was ill. LISA FOSTER recalls that FOSTER always was worried and stressed. FOSTER told LISA FOSTER

Investigation on 5/9/94 at Washington, D.C. File # 29D-LR-35063

by _____ Date dictated 5/16/94 OIC 000271

CONFIDENTIAL

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Continuation of FD-302 of ELIZABETH BRADEN FOSTER, On 5/9/94, Page 10

LISA FOSTER's daughter, LAURA FOSTER, was the primary driver of the Honda automobile which was found at Fort Marcy Park, Virginia on July 20, 1993. The Honda automobile belonged to LAURA FOSTER and also to one of LISA FOSTER's sons. The son and daughter shared the automobile. LAURA FOSTER had used the Honda while she was attending Vanderbilt University and then had driven it to Washington. The Honda automobile was the only car which FOSTER and LAURA FOSTER had with them in Washington until LISA FOSTER arrived with the other family members and with the Lexus automobile owned by their family.

It was not only typical for FOSTER to drive the Honda to work at the White House, it was imperative.

The contents found in the Honda on July 20, 1993, e.g., the cigarette pack, beer cans, and corkscrew, belonged to LISA FOSTER's son. FOSTER himself did not smoke. FOSTER's sons had gone to the beach the weekend preceding July 20, 1993, and the refuse from the weekend was still in the passenger compartment of the Honda when it was searched by police at Fort Marcy Park.

The Honda is no longer in the possession of LISA FOSTER because she sold the car to her brother-in-law, who in turn is leasing the car to her brother in Nashville, Tennessee.

LISA FOSTER describes the color of the Honda as taupe or grayish. She further describes it as a light color. 

FOSTER had not made specific plans for the weekend which followed his death. He had spoken with LISA FOSTER about going away for that weekend and about coming home early from work so they could get an early start on the weekend. LISA FOSTER had talked to him about trying to go away every weekend. They had

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Continuation of FD-302 of ELIZABETH BRADEN FOSTER, On 5/9/94, Page 14

At this point in the interview, LISA FOSTER was asked to examine a pair of eyeglasses which had been found in Fort Marcy Park on July 20, 1993. LISA FOSTER held the glasses, examined them, and then stated that the eyeglasses appeared to be those of her husband. LISA FOSTER noted that the tips of the stems of the eyeglasses had bite marks on them, which was an observation consistent with one of her husband's habits. FOSTER had frequently chewed on the tips of his eyeglasses as a nervous habit.

LISA FOSTER then examined a revolver which had been brought to the interview by the interviewing agents. FOSTER examined the revolver, which had also been found at Fort Marcy Park on July 20, 1993, and stated that she believed it may be a gun which she formerly saw in her residence in Little Rock, Arkansas. ←

LISA FOSTER then examined a photocopy of a handwritten note which has previously been identified as having been written by her late husband. LISA FOSTER believes that the original note was written on or about July 11, 1993. LISA FOSTER is not entirely certain of this date and believes that the note was written sometime during the period between July 4 and July 20, 1993. She believes that the note was written by FOSTER in their Washington residence on a day when there were a number of young people in her house. Her son was working as a Senate aide and there were a number of other aides visiting him on that day. LISA FOSTER invited FOSTER to go with her to the store, but he declined to accompany her. FOSTER was upstairs in bed, alternately trying to sleep and work. LISA FOSTER suggested to FOSTER that he write down everything that "they" did wrong. She suggested to FOSTER that he go on the offensive and not continue to take responsibility for every mistake which was made in the White House. FOSTER agreed with LISA FOSTER's suggestion, and he sat up in bed and appeared energized. FOSTER told LISA FOSTER that he had not resigned yet, and he said that he had already written his opening argument in his defense. LISA FOSTER believes that the torn note which was found was actually FOSTER's opening argument in the event he had to testify before Congress.

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Continuation of FD-302 of ELIZABETH BRADEN FOSTER, On 5/9/94, Page 15

Although LISA FOSTER did not view or read the note on the day that FOSTER appeared to be energized by her remarks, she is confident that the comments written in the note were written on that same day. LISA FOSTER knows that FOSTER was upset about the Federal Bureau of Investigation (FBI) being called in regarding the Travel Office matter, but she does not believe that FOSTER believed that the FBI had lied. People know that representatives of the media were getting deals through the White House Travel Office. LISA FOSTER is aware that people knew of these deals, but she herself knew nothing about FOSTER's remarks in the note pertaining to the Republicans or the usher's office. LISA FOSTER believes that FOSTER was concerned about excessive costs being incurred by the usher's office, but FOSTER never discussed these matters with her.

On Tuesday night, July 13, 1993, FOSTER spoke with LISA FOSTER about resigning. LISA FOSTER encouraged him to stay in his position in the White House Counsel's office. She advised him that Congress would take a recess in August 1993. LISA FOSTER then suggested to FOSTER that he should stay in his current post until Christmas of 1993. LISA FOSTER understood clearly that FOSTER was speaking about the Travel Office when he was speaking of his depression and his concerns.

LISA FOSTER is aware of the whereabouts of some ammunition which was kept at the FOSTER residence in Little Rock prior to her husband's death. She recalls finding a number of shotgun shells in the top drawer of her dresser. She also recalls that there were a number of shotgun shells kept in a closet. In searching her house, LISA FOSTER found a number of 20 gauge and 12 gauge shotgun shells, some .22 caliber ammunition, and possibly some small handgun ammunition. LISA FOSTER does not recall seeing any such ammunition at her house in Washington, D.C.

LISA FOSTER believes that she may have seen the handgun which she examined previously during the interview at her residence in Washington. LISA FOSTER recalls that as she was packing her belongings in Little Rock in preparation for coming to Washington, D.C., she found a handgun inside a travel trunk which had been packed by FOSTER prior to his departure for Washington. Specifically, as LISA FOSTER was packing in Little Rock, she came across a silver-colored gun, which she then packed in with her other property. When LISA FOSTER unpacked the gun in

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Washington, FOSTER saw the gun and commented on it. LISA FOSTER had not had a prior conversation with FOSTER about bringing a gun to Washington, D.C., but she argued with FOSTER when the gun was unpacked. LISA FOSTER told FOSTER that she did not want any guns in her house in Washington.

LISA FOSTER is not aware of any photographs which may be kept in Arkansas which would depict the guns owned by FOSTER's late father. She is only aware of snapshots of family members going hunting.

LISA FOSTER is not aware of any records from the elder MR. FOSTER's estate which might describe the firearms he had owned. She is aware of a handwritten note from the elder MR. FOSTER regarding the disposition of his property after he passed away. According to this note, all of the elder MR. FOSTER's guns were left to FOSTER and a diamond was left to LISA FOSTER. After the funeral for FOSTER's father, FOSTER went down to his father's house and retrieved the guns. LISA FOSTER believes that there were approximately three to five handguns included in the guns retrieved by her husband. She believes that her husband obtained all of the guns which were left by FOSTER's father.

LISA FOSTER does not know where her husband kept the guns left to him by his father while the FOSTERS were still living in Little Rock.

LISA FOSTER believes that the shotguns from the estate of the elder MR. FOSTER are currently in the possession of her brother-in-law, who is the husband of her sister. SHARON BOWMAN, FOSTER's sister, has one handgun. LISA FOSTER believes that BERYL ANTHONY has one of the handguns from the estate here in Washington, D.C., but she has not asked ANTHONY that specific question.

FOSTER himself did not like guns. FOSTER's father had given guns to LISA FOSTER's sons, which displeased LISA FOSTER. LISA FOSTER also knows that FOSTER kept a gun in a closet in their home in Washington, D.C. LISA FOSTER was aware of the location of one gun inside her residence in Washington and she found that gun still in its usual location on the night of July 20, 1993. The gun which she found on that date was not the silver gun which she had earlier found in the trunk in Little Rock. LISA FOSTER believes that the gun found at Fort Marcy Park

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CONFIDENTIALContinuation of FD-302 of ELIZABETH BRADEN FOSTER, On 5/9/94, Page 17

may be the silver gun which she brought up with her other belongings when she permanently moved to Washington. LISA FOSTER does not know with certainty, but she suspects that there were some bullets at the house in Washington, D.C. ←

Sometime within the last two weeks prior to July 20, 1993, LISA FOSTER told FOSTER to remove the guns from their house in Washington. FOSTER told LISA FOSTER not to remark about the guns in front of the boys. LISA FOSTER believes that she may have told her husband twice during that time to remove the guns, but she never checked to see if the guns had actually been removed.

LISA FOSTER assumes that ammunition was given to her husband in conjunction with his receipt of the guns from his father's gun collection, but she does not know for certain. She never knew FOSTER to buy any ammunition except for shotgun shells when he went hunting.

To the best of LISA FOSTER's knowledge, FOSTER never carried a handgun in his automobile. She never knew FOSTER to carry a gun with him to work. FOSTER parked his automobile in slot 16 on Executive Boulevard West whenever he was at the White House. LISA FOSTER knows that the trunks of vehicles are checked when the vehicles are driven onto the White House grounds. When not in use, the Honda was typically parked on the street adjacent to the FOSTER residence while the FOSTER family's Lexus was parked in a space behind their house.

LISA FOSTER believes that the guns which were brought by her family from Little Rock to Washington were transported on the moving van with their other belongings.

LISA FOSTER does not know where her husband might have obtained the two loose bullets which were discovered in the handgun found at Fort Marcy Park.

LISA FOSTER is not aware of any background information regarding her husband's possession of guns which could assist in tracing the gun found in his hand at Fort Marcy Park. SHARON BOWMAN told LISA FOSTER that FOSTER's father kept a gun by his bed while he was still living, and LISA FOSTER believes that that gun may be the same revolver she was shown by the interviewing agents.

OIC 000287

Report of the
Independent Counsel
In Re
Vincent W. Foster, Jr.

Washington, D.C.
June 30, 1994

Robert B. Fiske, Jr.
Independent Counsel

Roderick C. Lankler
Deputy Independent Counsel

Mark J. Stein
Carl J. Stich, Jr.
Associate Independent Counsel

I. The Gun

The Park Police submitted the gun found in Foster's hand to the Bureau of Alcohol, Tobacco and Firearms ("ATF") for testing. ATF identified the gun as a .38 caliber Colt revolver. The gun contained two different serial numbers, indicating that it was assembled with parts from two different guns. The only available records indicate that guns bearing those serial numbers were purchased in 1913.

When shown the gun, Foster's sister, Sharon Bowman, identified it as appearing very similar to the one their father had kept in his bedside table, specifically recalling the pattern on the grip. When her father fell ill with cancer in 1991, Bowman moved this gun and others in her father's collection into a closet within her father's house. In 1991, shortly after her father's death, Bowman showed Foster where she had put the guns and Foster removed them from the house.

Lisa Foster stated that the gun looked similar to one that she had seen in their home in Arkansas and that she had brought to Washington. Foster had packed a trunk prior to going to Washington but did not take the trunk with him. When Lisa Foster "repacked" the trunk for her own move to Washington in June, she saw the gun and brought it with the rest of her belongings.* Lisa Foster felt uncomfortable having a gun in their house, and twice asked Foster to remove it. On the night of Foster's death, she found a gun,

* Foster's children did not recognize the gun as one they had seen in their home.

different in appearance from the gun that she had brought with her from Little Rock, in the closet of her house in Washington. She did not recall seeing any ammunition in their house in Washington. In recent weeks, she found some ammunition at her home in Arkansas, but none of it was .38 caliber.

J. The Park Police Investigation

1. Investigative jurisdiction

Because Foster's death occurred in a National Park, the Park Police, as part of the Department of the Interior, had jurisdiction to conduct the investigation. Park Police Chief Robert E. Langston stated that the Park Police have historically had primary investigative jurisdiction for crimes or possible crimes committed within federal parks.

The FBI would have had primary investigative jurisdiction if the circumstances fell within the Presidential and Presidential Staff Assassination statute, Title 18, United States Code, Section 1751. That statute makes it a federal crime to, among other things, kill the President, Vice-President, or a specified number of persons appointed by the President or Vice-President. The statute further provides that violations shall be investigated by the FBI.* Based on a preliminary inquiry by the FBI which failed

* 18 U.S.C. Section 1751 covers "any person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President. . . ." Title 3, United States Code, Section 105(a)(2)(A) provides that the President may appoint twenty-five employees at a specified rate of pay. Because the preliminary investigation by the FBI provided no indication of criminal activity, the FBI did not determine whether Foster was covered by this statute.

2152

308

NATIONAL PARK SERVICE
SUPPLEMENTAL CRIMINAL INCIDENT RECORD

JUVENILE CASE 0

REPORTING AGENCY

United States Park Police

NATURE OF INCIDENT

Death Investigation

RESULTS OF INVESTIGATION

Interview: Lisa Foster

On 7/29/93 at approximately 1610 hours Lisa Foster, wife of Vincent W. Foster, was interviewed at the law offices of Svidler & Berlin, 3000 K Street, Northwest, Washington, D.C. The interview was conducted by Detective Peter W. Markland and Captain Charles Kumo. Mrs. Foster was represented by Mr. James Hamilton. Also present, at Mrs. Foster's request, was Mr. Beryl Anthony and Mr. John Sloan.

Mr. Hamilton prefaced the interview by stating that there would be no waiver of the attorney-client privilege between himself and Lisa Foster. Prior to any disclosure of this report Mr. Hamilton requests that he be consulted. Lisa Foster then provided the following information:

-Lisa and the rest of the family were in Washington, D.C. in November 1992 and again around Easter 1993. They remained in Arkansas the remainder of the time because of school year considerations. Mr. Foster lived apart from his wife and family until June of this year when the family moved to Washington to join him.

-Pressures associated with his role at the White House were physically affecting Mr. Foster adversely. Specifically citing not being able to sleep well and telling his sister, Sheila Anthony, that he was not feeling well and was experiencing high blood pressure.

-The criticism of the President in the news media, the Travel Office investigation, the scrutiny by the press of the people from Arkansas, and even the stress of the family move to Washington in June all seemed to Lisa Foster to have a cumulative effect on Vincent Foster. He "took it all personally" and once stated to her "how did I get myself into this?".

-Vincent Foster historically dealt very well with stressful situations but was used to being in charge and in control of situations while in Arkansas. Control that he lost when he took the position at the White House. He also lost the outlets for stress with the family life that he enjoyed while in Arkansas. Lisa and he talked about this and had begun an effort to rectify the situation by taking time out for themselves. They had just traveled to the eastern shore and, although it had not gone particularly well, discussed that things would take time and not change overnight.

8 WARRANTED <input type="checkbox"/> YES <input type="checkbox"/> NO	9 LATENTS <input type="checkbox"/> LATENTS <input type="checkbox"/> MOTORS	10 TECH NOTES	11 INVESTIGATOR NOTIFIED	12		
13 STATE	<input type="checkbox"/> OPEN	<input type="checkbox"/> SUSPENDED	<input type="checkbox"/> CLOSED BY	<input type="checkbox"/> ARREST	<input type="checkbox"/> RECEIVED	<input type="checkbox"/> UNFOUNDED
14 REPORTING OFFICER	15 MODEL NO	16 DATE	17 INVESTIGATOR <i>Peter W. Markland</i>	18 SUPERVISOR	19 MODEL NO	20 DATE

PAGE 1 OF 3 PAGES

U.S. GPO 1987-0-225-121-0000

SUPPLEMENTAL CRIMINAL INCIDENT RECORD

JUVENILE CASE

SYSTEM ARLA	UNITED STATES Park Police	MO	DA	YR	YEAR	CASE/INCIDENT NUMBER
NATURE OF INCIDENT	Death Investigation	0	7	20	93	1931-3101502
RESULTS OF INVESTIGATION		RECLASSIFICATION OF INCIDENT				

ITEM

-Vincant Foster had an extreme loyalty to the Clinton Administration and was trying to protect it. He felt he had personally failed and talked to Lisa about quitting, however, would not return to Arkansas (because of the personal humiliation he felt). Lisa Foster felt that something physical came over Vincent quickly.

-Mr. Foster's sister, Sheila Anthony, had recently provided him with the names of three psychiatrists in the event he should seek their care. It is not known whether or not he contacted any of these doctors. The Foster's family doctor, Larry Watkins, was contacted in Arkansas and he prescribed an anti-depressant, Trazodone 50 mg., for Mr. Foster. Lisa and Vincent discussed the prescription and Mr. Foster decided to start with the lowest possible dosage. Vincent Foster took one 50 mg. tablet of Trazodone on the evening of 7/19/93.

-The last time Lisa Foster saw her husband was on the morning of July 20th at approximately 08:30 A.M. when he left for work driving the Honda. She left the house shortly thereafter for an appointment and does not know whether or not he returned to the residence that afternoon. Her son may have been in the basement during the early afternoon but it would be possible for Vincent Foster to enter and exit the residence without the son realizing his presence. On that particular morning Vincent Foster's mood seemed better than it had been "in a while".

-The torn note produced by the White House counsel's office was viewed by Lisa Foster on 7/26/93 at the White House. She stated that it was, indeed, Mr. Foster's handwriting. She also stated that she had counseled him to write down his concerns and he probably did so in preparation for any upcoming investigation into his activities and decision making processes. It is Lisa Foster's opinion that the note was written 1-1½ weeks before his death. *** (Mrs. Foster and Mr. Hamilton have requested that the document be turned over to the custody of the family at the conclusion of this investigation.)

-Mrs. Foster stated that she was used to a number of guns being present at her home in Arkansas due to the different lifestyle there. She was presented with a photograph of the weapon found with Mr. Foster's body but was unable to identify it. She suggested that her sister-in law, Sharon Bowman, may be able to identify the weapon. Mrs. Bowman is an outdoors type person and would have a better knowledge of firearms owned

8 WARRANTS <input type="checkbox"/> YES <input type="checkbox"/> NO	9 LATENTS <input type="checkbox"/> LATENTS <input type="checkbox"/> PHOTOS	10 10 TECH NOTIFIED	11 INVESTIGATOR NOTIFIED	12
13 STATUS: <input type="checkbox"/> OPEN <input type="checkbox"/> SUSPENDED		CLOSED BY: <input type="checkbox"/> ARREST <input checked="" type="checkbox"/> RECEPTION <input type="checkbox"/> UNFOUNDED		PAGE 2 OF 3 PAGES
14 REPORTING OFFICER	BADGE/ID	DATE	15 INVESTIGATOR	BADGE/ID
			16 SUPERVISOR	BADGE/ID
				DATE

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
UNITED STATES PARK POLICE

MOBILE CRIME LAB REPORT SUPPLEMENT

OFFENSE/INCIDENT: Death Investigation CASE NO: 30502-63
 INCIDENT LOCATION: Ft. Marcy DATE: 7-20-93
 DISTRICT/FIELD OFFICE: D-2 TIME: 1804
 REPORTING OFFICER: Ferris MCL# 166-93
 C.I.B. INVESTIGATOR: _____

RESULTS OF INVESTIGATION At the scene the following observations were made by the undersigned:
 Approximately 20 feet west of the canons axle the body of a white, male, 45 -50yrs., neat appearance, dressed in a white shirt, bluegrey slacks, black dress shoes, was laying face up with the head upslope in an east - west alignment. There was blood staining around the chin area and from the nose down the right cheek. Blood stains also were found on the right shoulder and neck area as well as the right ribcage area of the shirt. The victim's arms were at his sides and the victim had his right hand on a black revolver. The right thumb was trapped between the trigger and inside front edge of the trigger guard. A cursory examination of the victim's hands for blood spatter evidence revealed one droplet on the right index finger, above the second joint. No discernible forward or back spatter blood evidence on the victim's shirtsleeves. I observed dark residue along the edge of the right index finger facing the thumb between the thumb's joint and finger tip. Approximately 13 ft. downslope from the victim's feet (west) I observed a pair of prescription glasses laying on the ground.

After photographing the victim I removed the revolver from the victim's right hand. The victim's hand was flexible with little or no rigor. The thumb was wedged between the trigger and front inside edge of the trigger guard indicating that the hammer was in the cocked position prior to the thumb being inserted. The revolver and pair of glasses were collected as evidence.

The coroner arrived at 1940 hrs. When the body was turned onto its stomach I observed a large area of blood pooled where the head had been resting. The area was photographed and probed for the expended round with negative results. I also observed a larger area of blood where the victim's back had been, coinciding with blood stains on the back of shirt. The pooled blood was beginning to show signs of coagulation. The body was taken by The McLean VFD unit. I transported the weapon to the ID lab where I unloaded it and documented its information and condition onto a USPP Firearms Examination Report (form USPP 123). I then wrapped the barrel in brown paper secured with rubber bands to preserve any blood spatter, blowback, gunpowder residue, hairs, fiber, or tissue evidence. Weapon was placed in sealed evidence bag in the evid. locker to await submission to the FBI labs.

ID TECHNICIAN

DATE

SUPERVISOR

DATE

Officer: Simoneido 7-26-93

[Signature]

7/28/93

Feels something physical
 came over him quickly.

Guilt -

Meng Lou family -

- Mrs. Lee Brown ^{Here}
 AE.

Sharon Brown may

be related to IA Jones

Plate provided to Mr. Sloan.

Note the gun she thought

it must be. Size, six-

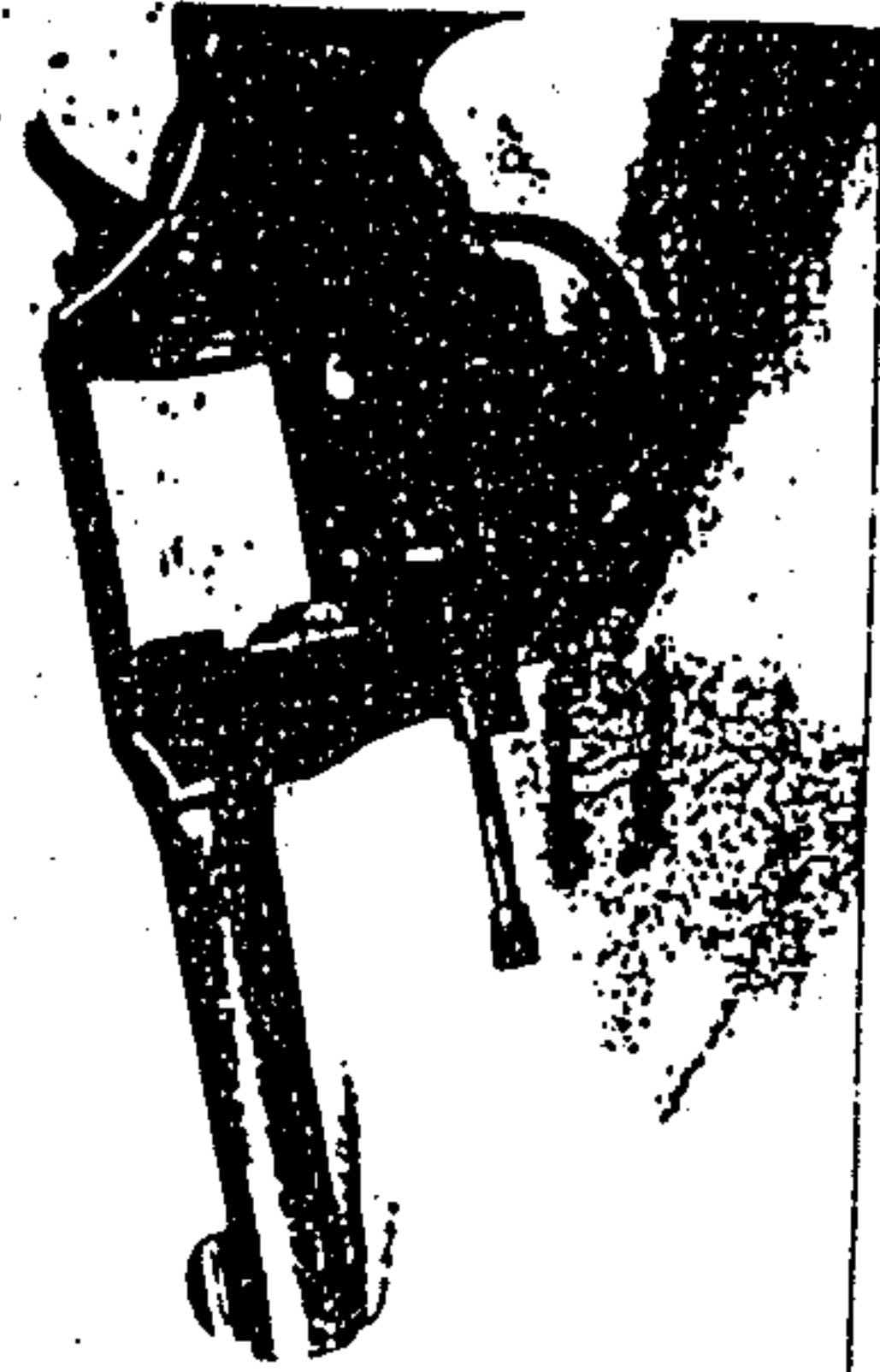
guns, large barrel.

Yun's note was written

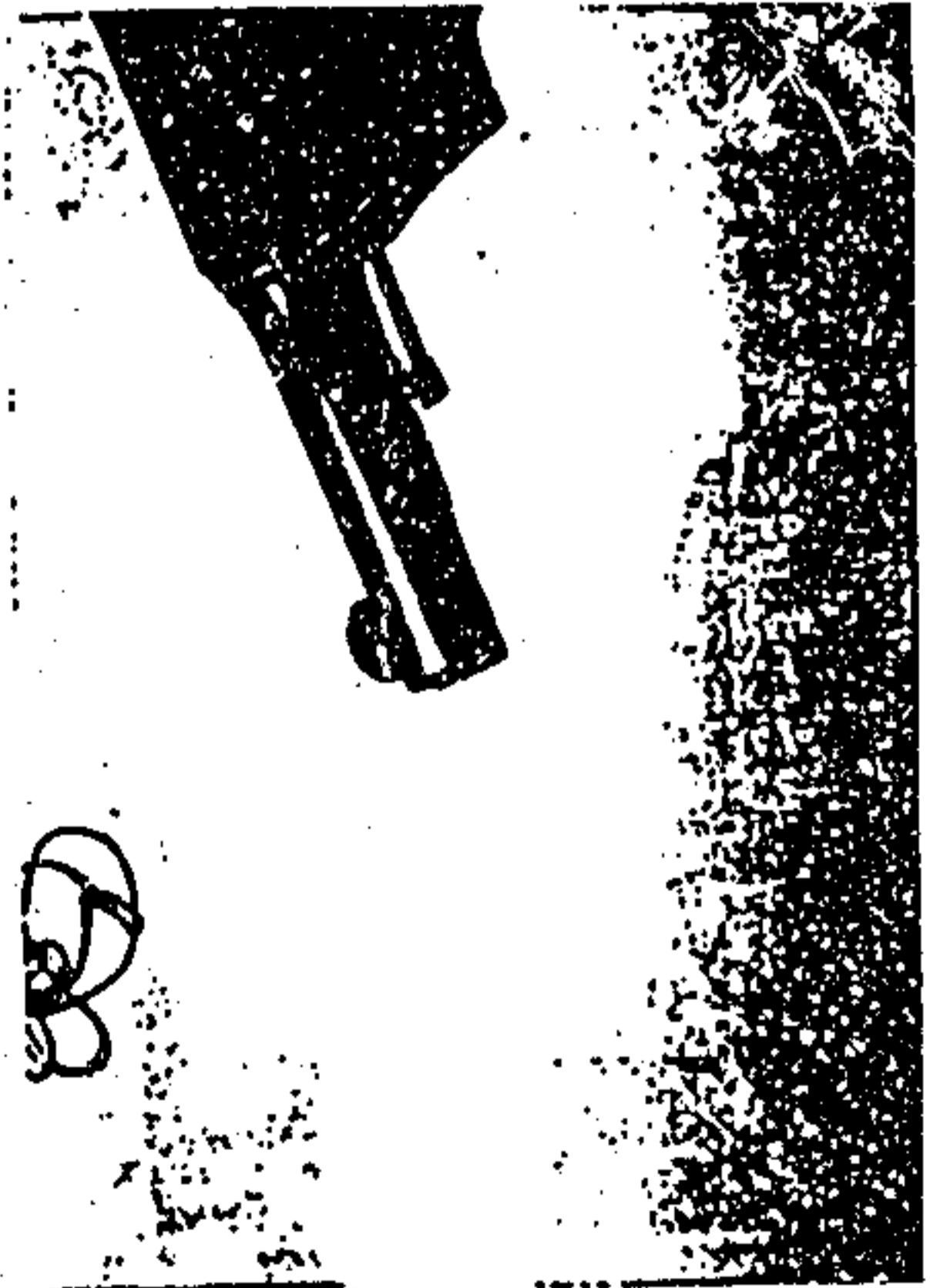
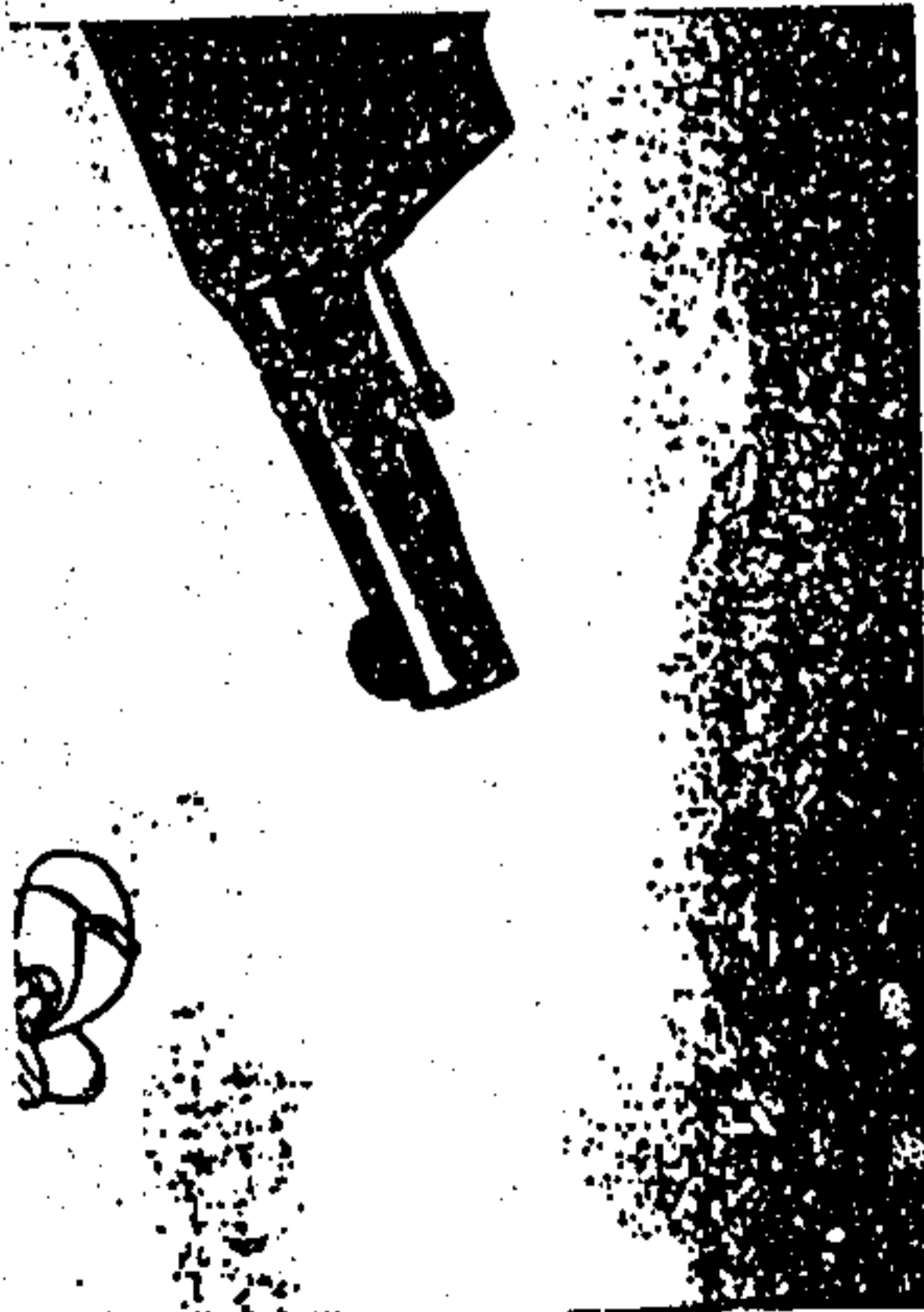
1-1/2 wk. before. In one

There was an investigation

2407

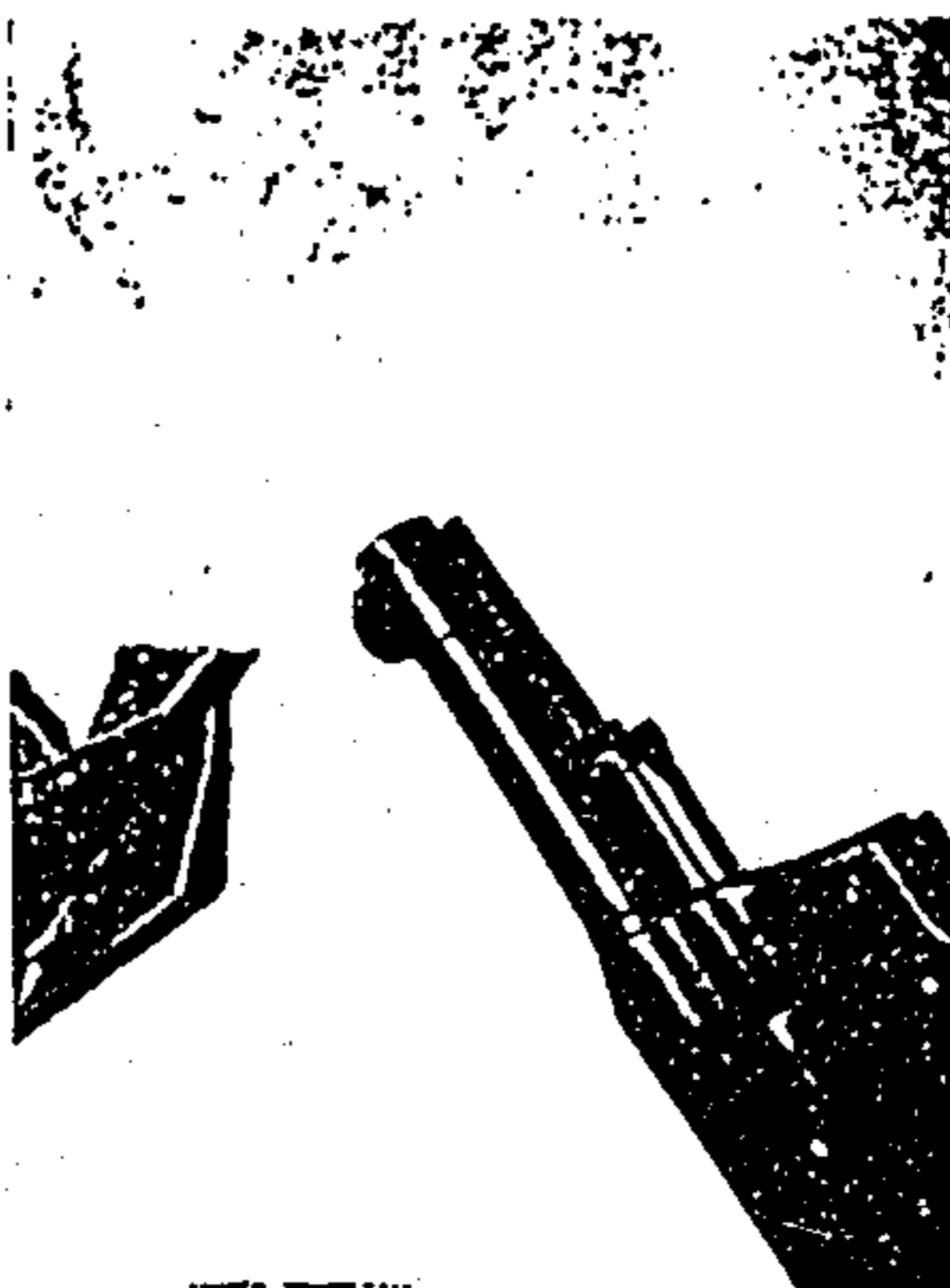
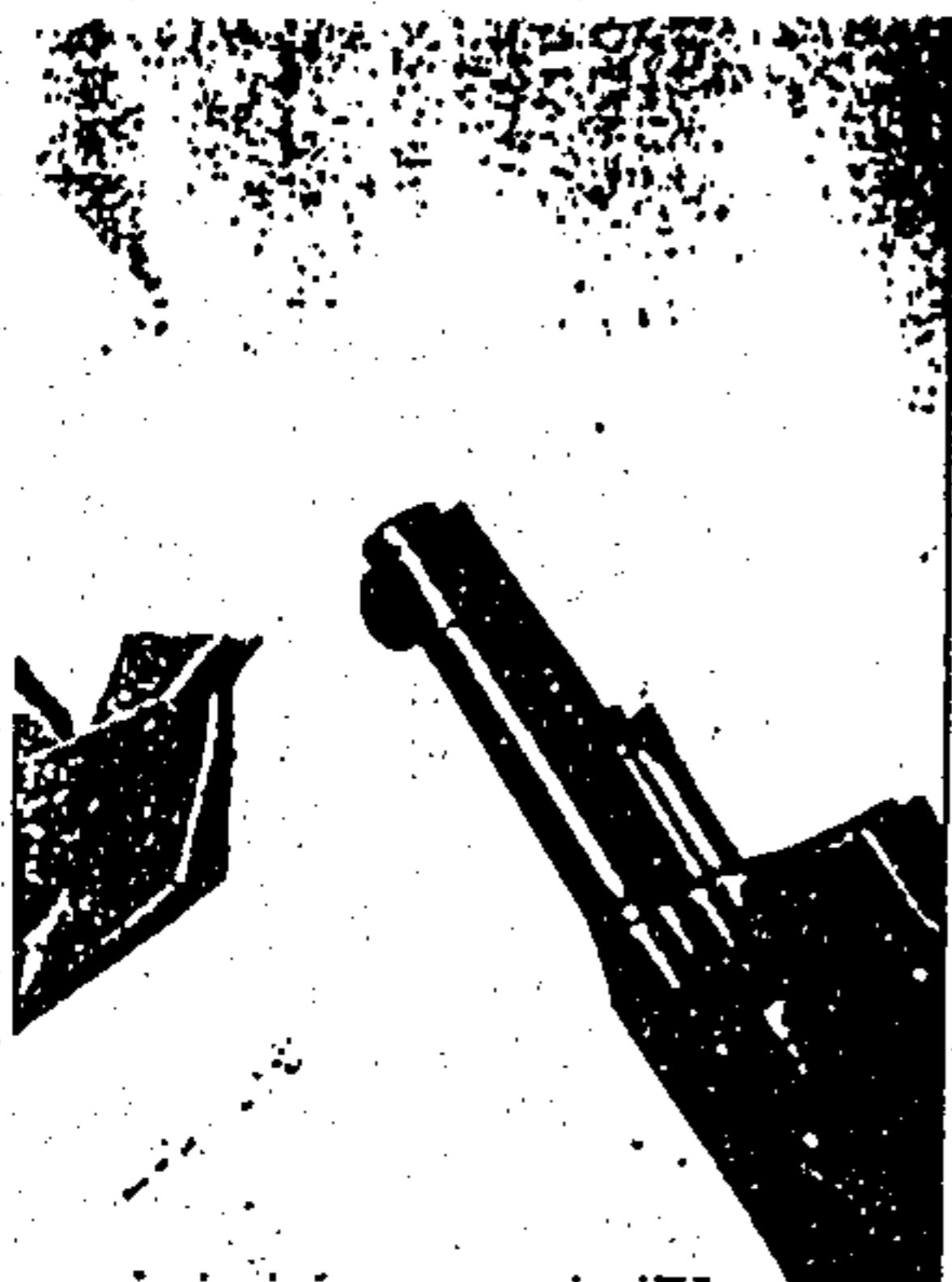


1063



1067

2412



1065

reputation for intellect and integrity. Nothing travels faster than an accusation that another lawyer's word is no good. . . . Dents to the reputation in the legal profession are irreparable."

Foster preached humility in the face of success, saying that "Along the way you will receive recognition for achievement, a complimentary newspaper article, an award, a plaque, and if the gods are with you, maybe even a commencement address. When you smile for the camera and bask in the applause and take your bow, pause and reflect and recognize who helped you get there. Your spouse, your law partner, your parents, your friends." But then, perhaps reflecting on his recent experiences, his message hinted at barely contained bitterness: "Because there will also be failures, and criticisms and bad press and lies, stormy days and cloudy days, and you will not survive them without the support of those same spouses, law partners and friends. So it is."

There was a prolonged ovation, and many students came up afterward to tell Foster how inspired they were.

Now, with the school year ending, it was time for Lisa and their son to join Foster in Washington. After the address, Foster returned immediately to work, and Lisa went back to oversee the packing. As she was going through a trunk that Vince had packed, she came across a silver handgun. She was surprised to see it there. In contrast to Vince's father, she knew her husband disliked guns. She'd been annoyed when Vince's father, in a handwritten note, bequeathed his collection of guns to him, and Vince had shared her disdain for the weapons. Still, she put the gun among the things they were taking to Washington.

Later, as she continued the packing by herself, Lisa felt overwhelmed by the prospect of leaving her life behind and moving to a strange city. She sat down on the living room floor and cried. She called Foster, still teary, complaining that she didn't know what to do. Foster was barely able to contain his frustration. Nearly overwhelmed himself, he could hardly believe that his wife was that helpless. He told her to look up a mover in the Yellow Pages.

That spring, Hubbell had been nominated to be associate attorney general, and confirmation hearings were scheduled. Foster continued to seem troubled by the prospect, worries that surely increased that spring. For Foster was aware of other potential prob-

The gun was later sent to the Bureau of Alcohol, Tobacco and Firearms ("ATF") for ballistics tests, gunpowder tests, residue pattern tests and any other appropriate tests.(179)¹⁰⁵ The ATF tests concluded that the gun was operable, that the two rounds in the gun were of similar manufacture, that the round was fired in the recovered gun, and that the gunpowder pattern was consistent with the pattern of gunpowder found on the decedent's hand and clothing.(180)¹⁰⁶

Mrs. Foster examined the revolver recovered from Mr. Foster's hand and stated that it may have been a gun which she had seen in her Little Rock residence.¹⁰⁷ One of Mr. Foster's sisters stated she believed the gun had been previously owned by her father and inherited by her brother.(181)

2. The Diary and Other Documents

Investigator Rolla and Lieutenant Kass went to the office of Foster family attorney James Hamilton to review Mr. Foster's diary. The diary was a hard-bound book with lined pages, none of which had been removed from the book.(182) The first several pages were blank, followed by about 10 to 15 pages with writing.(183) Investigator Rolla read every entry in the diary.(184) The entries span the time between the Presidential election in November 1992 and the Presidential inauguration in January 1993.(185) Investigator Rolla reviewed Mr. Foster's diary but found nothing significant in the document. Investigator Rolla also reviewed some of Mr. Foster's financial documents; he found no indications of financial difficulties, large losses of money or large withdrawals of cash.(186) Finally, Investigator Rolla and Lieutenant Kass obtained a sample of Mr. Foster's handwriting for comparison with the torn note that was retrieved from Mr. Foster's office.(187)

stances" (he may have washed his hands shortly before handling the gun) or excessive handling. (OIC Documents 000622-000623).

¹⁰⁵The Park Police closed the case six days before the ATF completed its report on the analysis of the gun. (Treasury Document T6298).

¹⁰⁶The FBI laboratory test results obtained at the request of the Office of the Independent Counsel are as follows: the DNA found near the muzzle of the gun was the same type as the DNA in Mr. Foster's blood sample. The gunpowder residue on Mr. Foster's shirt, soft palate, and right hand was physically and chemically similar to the gunpowder remaining in the empty cartridge case of the gun. (*Fiske Report*, Exhibit 1).

Gunpowder residue found on the socks and shoes of Mr. Foster was "not consistent with having originated from a fired cartridge," indicating that it came from a different source. Technician Simonello stated that, although the Park Police take precautions to protect evidence from contamination, contamination—particularly by microscopic particles—was a "possibility," since they have a small facility and a large volume of examinations. (OIC Documents 000378-000379).

The mark on Mr. Foster's right thumb is consistent with a mark produced by the gun's trigger when the thumb is wedged between the trigger and the trigger guard; the position of the gun in the photographs is consistent with pulling the trigger with the thumb. (*Fiske Report*, Exhibit 1).

¹⁰⁷Mrs. Foster had seen a silver colored handgun inside a travel trunk when she was packing for the family's move to Washington. She believes this may have been one of the guns Mr. Foster inherited and retrieved after his father's funeral. She also recalled that she had seen 12 gauge and 20 gauge shotgun shells, .22 caliber ammunition and possibly some small handgun ammunition at her house in Little Rock. She did not recall seeing the gun or any ammunition at their Washington home. While unpacking the gun in Washington, Mrs. Foster saw the gun and commented on it. She told Mr. Foster that she did not want any guns in her house in Washington, though she had not discussed the matter with him before then. She believes that her husband did not like guns, and she was certainly opposed to them. Nevertheless, Mr. Foster's father had given guns to Mrs. Foster's sons and Mr. Foster kept a gun in their bedroom closet in Washington. She did not believe her husband carried a gun in the family car or to work.

After being notified of her husband's death on July 20, she found the gun Mr. Foster kept in their closet, but noted that it was not the silver gun she had seen when packing in Little Rock. She believed the gun found in Fort Marcy Park may be the gun which she brought to Washington with the rest of the family's belongings. (OIC Documents 000285-000287).

The gun was later sent to the Bureau of Alcohol, Tobacco and Firearms ("ATF") for ballistics tests, gunpowder tests, residue pattern tests and any other appropriate tests.(179)¹⁰⁵ The ATF tests concluded that the gun was operable, that the two rounds in the gun were of similar manufacture, that the round was fired in the recovered gun, and that the gunpowder pattern was consistent with the pattern of gunpowder found on the decedent's hand and clothing.(180)¹⁰⁶

Mrs. Foster examined the revolver recovered from Mr. Foster's hand and stated that it may have been a gun which she had seen in her Little Rock residence.¹⁰⁷ One of Mr. Foster's sisters stated she believed the gun had been previously owned by her father and inherited by her brother.(181)

2. The Diary and Other Documents

Investigator Rolla and Lieutenant Kass went to the office of Foster family attorney James Hamilton to review Mr. Foster's diary. The diary was a hard-bound book with lined pages, none of which had been removed from the book.(182) The first several pages were blank, followed by about 10 to 15 pages with writing.(183) Investigator Rolla read every entry in the diary.(184) The entries span the time between the Presidential election in November 1992 and the Presidential inauguration in January 1993.(185) Investigator Rolla reviewed Mr. Foster's diary but found nothing significant in the document. Investigator Rolla also reviewed some of Mr. Foster's financial documents; he found no indications of financial difficulties, large losses of money or large withdrawals of cash.(186) Finally, Investigator Rolla and Lieutenant Kass obtained a sample of Mr. Foster's handwriting for comparison with the torn note that was retrieved from Mr. Foster's office.(187)

stances" (he may have washed his hands shortly before handling the gun) or excessive handling. (OIC Documents 000622-000623).

¹⁰⁵The Park Police closed the case six days before the ATF completed its report on the analysis of the gun. (Treasury Document T6298).

¹⁰⁶The FBI laboratory test results obtained at the request of the Office of the Independent Counsel are as follows: the DNA found near the muzzle of the gun was the same type as the DNA in Mr. Foster's blood sample. The gunpowder residue on Mr. Foster's shirt, soft palate, and right hand was physically and chemically similar to the gunpowder remaining in the empty cartridge case of the gun. (*Fiske Report*, Exhibit 1).

Gunpowder residue found on the socks and shoes of Mr. Foster was "not consistent with having originated from a fired cartridge," indicating that it came from a different source. Technician Simonello stated that, although the Park Police take precautions to protect evidence from contamination, contamination—particularly by microscopic particles—was a "possibility," since they have a small facility and a large volume of examinations. (OIC Documents 000378-000379).

The mark on Mr. Foster's right thumb is consistent with a mark produced by the gun's trigger when the thumb is wedged between the trigger and the trigger guard; the position of the gun in the photographs is consistent with pulling the trigger with the thumb. (*Fiske Report*, Exhibit 1).

¹⁰⁷Mrs. Foster had seen a silver colored handgun inside a travel trunk when she was packing for the family's move to Washington. She believes this may have been one of the guns Mr. Foster inherited and retrieved after his father's funeral. She also recalled that she had seen 12 gauge and 20 gauge shotgun shells, .22 caliber ammunition and possibly some small handgun ammunition at her house in Little Rock. She did not recall seeing the gun or any ammunition at their Washington home. While unpacking the gun in Washington, Mrs. Foster saw the gun and commented on it. She told Mr. Foster that she did not want any guns in her house in Washington, though she had not discussed the matter with him before then. She believes that her husband did not like guns, and she was certainly opposed to them. Nevertheless, Mr. Foster's father had given guns to Mrs. Foster's sons and Mr. Foster kept a gun in their bedroom closet in Washington. She did not believe her husband carried a gun in the family car or to work.

After being notified of her husband's death on July 20, she found the gun Mr. Foster kept in their closet, but noted that it was not the silver gun she had seen when packing in Little Rock. She believed the gun found in Fort Marcy Park may be the gun which she brought to Washington with the rest of the family's belongings. (OIC Documents 000285-000287).

"He shot himself," Rolla added. Laura screamed and ran upstairs.

Lisa, between sobs, managed to ask: "Did he put it in his mouth?"

"Yes," Rolla replied. He was startled by the question. Had Lisa had some indication, some premonition, that Foster planned to shoot himself? Lisa rose and rushed up the stairs after her daughter.

Everyone now pressed into the living room, and Rolla and his colleague, Braun, began trying to gather some information from the distraught members of the group, now talking quietly among themselves, many still fighting back tears. He knew this was the time when people were least likely to have their views of events colored or tainted by exchanges with others. This was still an open investigation. Though suicide seemed by far the most likely cause of death, murder remained a possibility that would have to be investigated. "Did you see this coming?" he asked. "Were there any signs of this?" Everyone insisted no. Hubbell declined to answer questions, spending his time on the cellular phone. Rolla called headquarters and said Foster's White House office should be sealed. Braun told Watkins the same thing.

After about fifteen minutes, Lisa returned, dressed and looking more collected. Braun tried to ask a few questions, but Lisa wouldn't answer. Rolla seemed to manage a better rapport with her. "Were there any indications of depression?" Rolla asked her.

"No, nothing," she said, her eyes brimming with tears. "He was so happy."

"Did he own a gun?"

"I don't know," she replied. "What kind was it? What did it look like?"

"It was a .38 caliber revolver . . ."

Suddenly she seemed agitated, even angry. "How would I know? I don't know what guns look like." She turned and stalked into the kitchen, terminating the interview. She and Hubbell began searching the house, looking in vain for a suicide note.

Neither Rolla nor Braun, who was also working the room, made much headway with any of the others. The phone began ringing off the hook. The investigators felt Hubbell, in particular, was discouraging people from saying anything; as Braun tried to question Sheila Anthony, the heavysset Hubbell pushed Braun out

**DEPOSITION OF JOHN C. ROLLA
IN RE: S. RES. 229**

THURSDAY, JULY 21, 1994

**U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.**

Deposition of JOHN C. ROLLA, called for examination pursuant to notice of deposition, at 10:20 a.m. in the Dirksen Senate Office Building, Room G-59, before WENDY S. CASWELL, a Notary Public within and for the District of Columbia, when were present:

**GLENN F. IVEY, Esq.
Majority Counsel
ROMAN E. DARMER, III, Esq.
JULIE FALLON, Esq.
IRA PAULL, Esq.
PAUL GOLDENBERG, Esq.
Minority Counsel
Committee on Banking, Housing, and Urban Affairs
U.S. Senate
On behalf of the Committee.**

1 I spoke with her. Cheryl spoke with her, she was very
2 cordial. I remember asking her, did you see any of this
3 coming, and she stated no. Nobody would say anything about
4 depression or that they noticed some signs, they were
5 worried.

6 There was no information given out to us.

7 Q You never got to ask that question of Lisa
8 Foster?

9 A I did ask that right in the beginning when she
10 was still on the steps, but she was so hysterical, I think
11 the answer was "no, no," or this kind of thing. It wasn't
12 enough -- you need to sit down and let people calm down.

13 Q What kind of information, other kind of
14 information would you be looking to obtain in a
15 notification specifically?

16 A Specifically, in this case, like I said,
17 everything pointed to a suicide, but we wanted -- we
18 obviously wanted to know, was there any reason to believe
19 anyone would want to hurt him, was he having an affair, is
20 there some reason, you know, not to embarrass anybody, but
21 just to say, do you know about it, who is it, let's go talk
22 to that person and what their feelings are, whatever.

1 Anything that would be out of the ordinary way of life.
2 And was it -- was he taking medication or something, was he
3 seeing the doctor, had he noticed anything odd about it.
4 You know, both side of the spectrum.

5 Q But you didn't get to ask any of these questions
6 of her?

7 A No. The only real question I got to ask was
8 about the gun, did Vincent own a gun. She asked me what
9 does it look like, you know. To me, right away I am
10 thinking oh, he does, well, it's a black-colored
11 revolver, .38 revolver. She cut me off and --

12 Q "She" being Lisa Foster?

13 A Yes, being angry, emotional -- it's an emotional
14 time when somebody supposedly kills himself -- angry and
15 cut me off and threw up her hands and said, I don't know
16 what guns look like and walked into the kitchen away from
17 me.

18 Q Did you try to follow her into the kitchen?

19 A No.

20 Q Did Investigator Braun try to follow her into the
21 kitchen?

22 A No. I had better rapport with her. She wouldn't

The CHAIRMAN. Had the body been moved at all? I mean, was the body in the position in which it was first found, or had it been moved in any way by the time you arrived, to your knowledge?

Mr. ROLLA. To my knowledge, the body had not been moved other than that we do have this blood transfer stain from the collar to the chin. Somebody either checked the carotid or whatever, may have moved the head, I do not know, but that is the only possible movement. Otherwise, no, the body had not been moved.

I approached the body carefully. The head was the first part of the body at the top of the embankment. Again, it is a very steep embankment with heavy foliage on both sides of the body. I carefully walked around the body, looking at it. Again, I was already told that there was a gun in the hand and at that point, I leaned over the body and observed a dark-colored revolver in the right hand of the deceased.

The CHAIRMAN. Let me just stop you there. My time is up. I want to, if I may, just ask one question, and then I will yield because I do not want to trespass on the time either. Did either of you see anything at the time that caused you to think that this might not be a suicide or the way it apparently would have appeared to you?

In other words, when you arrived, saw the scene, and saw the body, was there anything that struck either of you that would have caused you to say, maybe this was not a suicide. Was there anything that stuck out at that time that you recall now, or that you made a point of at the time?

Ms. Braun.

Ms. BRAUN. No. When we arrived at the scene and I went up to the scene, everything was consistent with a suicide.

The CHAIRMAN. Everything was consistent with a suicide. What would your answer be, Mr. Rolla?

Mr. ROLLA. Pretty much the same. Again, it was the early stages of investigation just arriving on the scene but at that point, everything was consistent with a suicide.

The CHAIRMAN. Let me yield now to Senator D'Amato.

Senator D'AMATO. I am going to yield my time to Senator Bond.

The CHAIRMAN. Senator Bond.

Senator BOND. Thank you very much, Mr. Chairman, and I want to thank the panel for their good work. I believe, Mr. Rolla, for ease of going through this, you have provided a great deal of information in the depositions.

I want to highlight for this Committee, some particular points of your testimony, and I will go through and give you the page numbers and ask you if that is an accurate reflection. It has to do with the outside interference in the investigation.

On page 63, you were asked: "If, at any time, if someone outside the Criminal Investigation Bureau, would you let me know, because there are lots of names."

You give an answer. "It would be very odd if anybody outside the CIB would ask anybody or do anything in the investigation."

They questioned you: "Did Officer Rule, when he called you, tell you the autopsy had been moved up specifically at the request of the White House?"

**HEARINGS RELATING TO MADISON GUARANTY
S&L AND THE WHITEWATER DEVELOPMENT
CORPORATION—WASHINGTON, DC PHASE**

HEARINGS
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED THIRD CONGRESS
SECOND SESSION

VOLUME I
ON
DEATH OF VINCENT W. FOSTER, JR.

JULY 29, 1994

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



103D CONGRESS }
2d Session }

SENATE

{ REPT. 103-433
{ Vol. I

MADISON GUARANTY S&L AND THE
WHITEWATER DEVELOPMENT CORPORATION
WASHINGTON, DC PHASE

R E P O R T

OF THE
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
UNITED STATES SENATE

ON THE
INQUIRY INTO THE U.S. PARK POLICE
INVESTIGATION OF THE DEATH OF
WHITE HOUSE DEPUTY COUNSEL
VINCENT W. FOSTER, JR.

together with
ADDITIONAL VIEWS



JANUARY 3, 1995.—Ordered to be printed
Filed under authority of the order of the Senate of December 1
(legislative day, September 12), 1994

U.S. GOVERNMENT PRINTING OFFICE

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division (94-1) for the Purpose of
Appointing Independent Counsels

REPORT ON THE DEATH OF VINCENT W. FOSTER, JR.,
BY THE OFFICE OF INDEPENDENT COUNSEL
IN RE: MADISON GUARANTY SAVINGS & LOAN ASSOCIATION

There are discrepancies in the descriptions of the color and kind of gun seen in Mr. Foster's hand.²²⁸ However, the descriptions provided by the first two persons to observe the gun, as well as of numerous others, are consistent with the gun retrieved from the scene and depicted in the on-the-scene Polaroids.²²⁹ That gun was taken into evidence by Technician Simonello on July 20, and has been maintained by law enforcement since then.²³⁰

2. Ownership of Gun

One follow-up investigative issue concerning the gun relates to its ownership. Virtually all theories that the manner of death was not suicide rest on an assumption that the gun did not belong to Mr. Foster. But testimony, circumstantial evidence,

not depicted in photographs of the scene, and it was not taken into evidence by investigators or the technician on the scene.

²²⁸ These discrepancies are created by statements of FCFRD personnel Arthur and Iacone, which themselves are not consistent. Arthur stated that the gun was blackish-brownish but not a revolver (based on the fact that he did not recall seeing a cylinder). OIC, 1/5/95, at 46-47. After viewing a photograph of the weapon in the decedent's hand, Arthur stated, according to the interview report, "My memory is, I saw a semi-automatic, however, I must have been mistaken." 302, 4/24/96, at 2. Iacone stated that the gun was a silver-colored revolver-type weapon. 302, 4/27/94, at 3; OIC, 1/10/95, at 27.

²²⁹ See Gonzalez 302, 5/15/96, at 4; Gonzalez OIC, 1/10/95, at 43 (saw black or dark revolver in hand); Hall OIC, 1/5/95, at 31 (saw black gun in hand); see also Wacha OIC, 1/10/95, at 41-42.

²³⁰ There are minor (but insignificant on this record) differences in descriptions by FCFRD and Park Police personnel of the estimated number of inches from Mr. Foster's right hand to his thigh and of the exact position of the hand and gun in relation to the thigh.

and forensic evidence support the conclusion that the gun did in fact belong to Mr. Foster.

Mrs. Alice Mae Foster, Mr. Foster's mother, stated that Mr. Foster, Sr., died in 1991. He had kept a revolver in a drawer of his bedside table, in addition to other guns in the house.²³¹ In 1991, when Mr. Foster, Sr., had been ill and bedridden for a period of time, Mrs. Alice Mae Foster had all the handguns in the house placed in a box and put into a closet. Subsequent to the death of Mr. Foster, Sr., in 1991, Mrs. Alice Mae Foster gave Mr. Foster, Jr., the box of handguns.²³²

Mrs. Lisa Foster similarly recalls that her husband took possession of several handguns from his parents' house near the time of his father's death.²³³ She recalled that, after they moved to Washington in 1993, some guns were kept in a bedroom closet.²³⁴ She recalled what she described as a silver-colored

²³¹ In August 1994, Sharon Bowman (the sister of Vincent Foster, Jr.) found five .38 caliber cartridges at the family home in Hope. 302, 12/1/94, at 1-2. That is further evidence suggesting that Mr. Foster, Sr., possessed a .38 caliber gun or guns. FBI Laboratory examination revealed that four of the cartridges were of the same manufacture (Remington) as in the revolver found in Mr. Foster's hand; they were manufactured at a different time than the cartridge and casing recovered from Mr. Foster's gun. FBI Lab Report, 2/21/95, at 2.

²³² 302, 5/2/95, at 1-2. Mrs. Alice Mae Foster and her long-time housekeeper viewed the gun recovered from Mr. Foster's hand, but they could not specifically identify it as one of the guns previously possessed by Mr. Foster, Sr. Id. at 2, 4.

²³³ 302, 5/9/94, at 16.

²³⁴ Id.; 302, 4/7/95, at 7.

gun²³⁵ (she also has referred to it as a "cowboy gun"²³⁶), which had been packed in Little Rock and unpacked in Washington. She also recalled a .45 caliber semi-automatic pistol. She said she found one gun in its usual location on July 20, 1993,²³⁷ the .45 caliber semi-automatic pistol.²³⁸ She did not find the other gun on or after July 20, 1993.²³⁹

On July 29, 1993, Mrs. Foster was shown a photograph of the gun retrieved from the scene and, according to the Park Police interview report, was unable to identify it from the photograph.²⁴⁰ On May 9, 1994, she was shown the actual gun that was recovered and said, according to the interview report, that the gun "may be a gun which she formerly saw in her residence in Little Rock, Arkansas" and that "she may have seen the handgun . . . at her residence in Washington."²⁴¹ She stated to the OIC in November 1995, when viewing the gun recovered from Mr. Foster's hand, that it was the gun she unpacked in Washington but had not subsequently found,²⁴² although she said she seemed to remember the front of the gun

²³⁵ 302, 5/9/94, at 15.

²³⁶ 302, 11/8/95, at 3.

²³⁷ 302, 5/9/94, at 16.

²³⁸ 302, 11/8/95, at 3.

²³⁹ Id.

²⁴⁰ USPP Report, 7/29/93, at 2 (L. Foster interview).

²⁴¹ 302, 5/9/94, at 14, 15.

²⁴² 302, 11/8/95, at 2.

looking lighter in color when she saw it during the move to Washington.²⁴³

Webster Hubbell stated that, on the night of Mr. Foster's death, Lisa Foster went upstairs in the Foster house with him. While there, she looked into the top of a closet, pulled out a "squared-off" gun, and said, according to Hubbell, that one of the guns was missing.²⁴⁴ To Hubbell's knowledge, the "other gun" was never found at the Foster house.²⁴⁵

Sharon Bowman, one of Mr. Foster's sisters, recalled that her father kept a black revolver in a drawer of his bedside table.²⁴⁶ She said that she had retrieved various handguns from her parents' house, placed them in a shoebox, and put them in her mother's closet (and Ms. Bowman said they later were given to Mr. Foster, Jr.).²⁴⁷ During the 1993 Park Police investigation, John Sloan, a family friend of the Fosters, wrote a letter to Captain Hume of the Park Police, stating that he had shown Sharon Bowman a photograph of the gun. According to the letter, Ms. Bowman stated that it "looked like a gun she had seen in her father's collection," and particularly pointed out the

²⁴³ Id.

²⁴⁴ 302, 1/13/95, at 8; 302, 11/30/95, at 1. In December 1994, Mr. Hubbell was convicted of federal crimes relating to his billing practices as an attorney at the Rose Law Firm in Little Rock.

²⁴⁵ 302, 11/30/95, at 2.

²⁴⁶ 302, 4/11/95, at 2.

²⁴⁷ Id.; 302, 6/6/94, at 2.

Transcript of James Stewart on Ray Briem's Talkradio Show

Courtesy of radio talk show host Ray Briem in Los Angeles, I now have a tape of his interview with "Blood Sport" author James B. Stewart that was broadcast live on April 30, 1996, at approximately 4:00 p.m. (PST) on radio station KIEV 870-AM out of Glendale, California. Ray is on M-F, 3:35 p.m. to 5:30 p.m. The call-in phone number is (800) 540-5438. Here is a transcript of the most important parts of the show, including (along with other goodies) my call to Stewart discussing the Foster death gun color issue.

<snip>

BRIEM: Do you know Hugh Sprunt?

STEWART: Uh, refresh my memory. That sounds slightly familiar.

BRIEM: Sprunt is a Texas CPA and attorney and he wrote a 165 page report called Citizen's Independent Report on the Death of Vince Foster.

STEWART: I believe on some of the shows I've been on, I have heard about it. I haven't read it myself and I'm not really familiar with his work.

BRIEM: But he has taken you to task for a lot of things, one being that you dismiss out of hand the work of Chris Ruddy. In fact, I had Chris Ruddy on the show and he sort of said you did a hatchet job on him; and of course, "60 Minutes" did the same thing. But you also dismiss the idea of the three international handwriting experts and the suicide note.

STEWART: Well, let me say I don't feel I did any kind of a hatchet job on Chris Ruddy. I certainly give Chris Ruddy credit for interviewing people that the mainstream media were ignoring and for helping to call attention to the fact, that I agree with, that this was a very hasty, unprofessional investigation, and because of that, that you know, there's no one there to blame, in large part, for many of the questions that have swirled about the death of Vince Foster. I do not agree with Chris Ruddy's, um, conclusion, or many intimations, for reasons that I discuss in the book. But I would hardly call that a hatchet job. I might further add that I called Chris Ruddy, I and my research assistant, a total of about a dozen times, and he would never agree to discuss his work or anything with me.

BRIEM: Really.

STEWART: And uh, so I feel in large part, if he feels that he was not fairly treated, he has no one to blame but himself. On the handwriting question, again, the reason I feel so convinced, um, as I, as other investigators have also concluded, this is a suicide, is, putting aside the forensic evidence for a moment, to me, overwhelming evidence of, of Vince Foster's depression and how seriously his state of mind had eroded and the reasons for that. Reasons I might add, that the White House did not want anyone asking about or getting to the bottom of.

But putting that aside, yes, there had been some anomalous forensic, um, aspects of this. But I found that virtually all of them were not inconsistent with the verdict of suicide once you've looked at what had really happened and tried to piece it together as best as could be done.

On the question of the handwriting analysis, my understanding is that, that Chris Ruddy organized these people and um, I've seen Vince Foster's handwriting and I saw the handwriting in the note. It looked the same to me. I'm not a handwriting expert, but I do know from my own experience as a lawyer, before I became a journalist, a trial lawyer, that you can find an expert to say virtually anything, and particularly in things as, as handwriting. I mean, nothing is ever 100% certain, but I think it's, it certainly is probable, if not highly probable, that it is his handwriting.

BRIEM: You know what I found interesting in this book? And um, it's worth the price of the book just to see what a

Transcript of James Stewart on Ray Briem's Talkradio Show

mainstream newspaper like the Los Angeles Times did or did not do regarding the Troopergate story. That's a fascinating story that you report.

STEWART: Well I'm glad you point that out because, um, so few journalists will ever write about what really goes on in the media and I tried to do that in this story. You know the Clinton White House has taken the position that they've been persecuted by mainstream media like the New York Times, the Washington Post, and the L.A. Times. But I think what you see in this story is that far from being persecuted, the L.A. Times, the New York Times, have, have in fact suppressed information that was unflattering to the Clintons, information that has subsequently turned out to be true.

BRIEM: When I read, and this is the first time I ever heard about it, that the L.A. Times editors, Jack Nelson, the Washington Bureau Chief, Shelby Coffee III, here, saying we've got to have lie detector tests, I just about fell over.

STEWART: Well, I've never heard of any reporter being held to that standard. If, if that standard, um, were required, half the stories we read would never appear in the paper, and um, uh, you know, we wouldn't have these newspapers. It was, it was preposterous and it struck me as, you know, completely inconsistent with standard news gathering policies. As the L.A. Times reporters were so upset about it, it was, first of all, they had gotten these, these troopers to go way out on a limb at considerable risk to themselves to tell this story on the record, to put their reputations behind it, and then they were told to go back and demand that they take lie detector tests. It was insulting to them, as it would be to anyone.

BRIEM: Before this happened I talked with, uh, Douglas Franz. He was a first class investigative reporter as far as I was concerned. He had written a book, and, uh, he resigned over this thing! He said I want no more of it.

STEWART: Yes he did. He was so upset, and he felt his, um, his integrity had been so compromised by the handling of the story by the editors. You know the other thing you see in this story is they dragged their heels. It wasn't just the lie detector test thing, um, and by the way the troopers even agreed to take it once that hurdle was put in their path. But it was one thing after another. They came up with preposterous questions that had to be answered and they said it had to be delayed and then they had to think about it and then the editor went on a skiing vacation.

BRIEM: And when they finally did print it, they put their own spin on it in the first lead of the story.

STEWART: They rewrote it like it was some historical tract.

BRIEM: Yes.

STEWART: And suddenly they're resurrecting stories about Thomas Jefferson and whether he had an affair with, um, you know, a black servant or something like that. Completely throwing it off, off, off the, um, off the track. And they barely put it on the front page. It was in just three little paragraphs stuffed down at the bottom right hand corner.

BRIEM: Being in Los Angeles, having lived here for much of my life, and seeing what the L.A. Times has done, it just, coming from a Pulitzer Prize winning author like yourself, it struck me, this book should be read by everyone because they could understand how difficult it must be for us in a one newspaper city, the second largest city in the country, and uh, what goes on with a one newspaper city. It's terrible, it really is. I feel very bad, uh, that we only have one newspaper because, uh, the old spirit of journalism seems to be dying, and, uh, it lends itself to, call it slanting, censorship, call it, call it whatever you want. Uh, you have a better term for it, I'm sure. The point is that, uh, it bothers me and I talk about it on the air quite, uh, quite frequently and now it's for all to read. I'll bet the L.A. Times is not happy with this book.

STEWART: Well, you know, again, in fairness, I can't, I can't comment generally about the L.A. Times. But I, um, cause I only looked in detail in this one aspect of it, but I think another startling aspect of it was that within the L.A. Times, they felt that the Washington bureau was so close to the Clintons that they didn't even trust people in the

Transcript of James Stewart on Ray Briem's Talkradio Show

Washington bureau to know that they were working on a story, an investigative story on the Clintons, for fear that the Clintons would be tipped off about it by somebody in their own organization.

BRIEM: Wow.

STEWART: And again, I thought that was an extraordinary revelation that said a lot. And I think the L.A. Times is not unique in this respect.

BRIEM: No, it isn't.

STEWART: Um, one of the things I learned about, one of the things I heard when I was asking, well why did the White House cut off their cooperation with me. I heard that George Stephanopolous said well, you can't trust book writers because they don't need us, they do their book, they do one book, they drop it and then they leave. They don't come back for more. He said we have to deal with the daily, you know, the daily press, the people who cover the press regularly. They need us. They have to come back day after day and get something from us. We can manipulate and control them. We can't control book writers. And unfortunately, I think that that is true about many of the news organizations in Washington. They're looking for next day's handout.

<snip>

BRIEM: To put something into perspective here, Sara Fritz, who writes for the L.A. Times, did something that I can't imagine being done. I wonder if the editor at the Times really knew that this was in her story. She, uh, at the end of a story about uh, uh, the, the trial in Little Rock, uh, she also writes: "Also on Sunday Newsweek magazine reported that the fingerprints of the First Lady were found on copies of her law firm's billing records that turned up at the White House not long ago. The billing records, which had been under subpoena for two years, before they were found, are being treated as evidence in the government's investigation of alleged obstruction of the Whitewater investigation by the First Lady.

STEWART: Um, huh. That's an extraordinary turn of events.

BRIEM: That is extraordinary. Do you believe that there could be an indictment of the First Lady?

STEWART: I would, would by no means rule that out as a possibility. I can't say there will be, of course, but, you know, this is under very thorough investigation, and, you know, the presence of the First Lady's fingerprints, the White House has been quick to say well, they think maybe she handled these during the 1992 campaign. I suspect that FBI techniques are such that they'll have some idea of when those fingerprints appeared on the document. But, again, the fingerprints standing alone do not prove that the First Lady handled these recently, within the time of subpoena. She's gone before a grand jury, under oath, denying that she had anything to do with these billing records or knew how they got in the White House. Um, and yet, they certainly don't exonerate her, and the circumstantial evidence on this continues to mount. All I can say is that if indeed it develops that the First Lady was handling these documents in this recent time frame, during which they were under subpoena, I would say she will almost certainly be indicted, and probably before the election.

BRIEM: Really.

STEWART: And, you know, people look at these poll numbers. I'm surprised that, this, this proceeding, um, in Little Rock against the McDougals, the Clintons' partners, and Jim Guy Tucker, has not been getting more attention. I mean, David Hale, however much his credibility in question, a federal prosecutor, Independent Counsel, put him on the witness stand and elicited testimony, under oath, in which he implicated the President of the United States in a fraudulent loan scheme. Now this is, this is ominous. This is a major cloud hanging over this administration and I wouldn't rule out at this point, anything that might result from this.

Transcript of James Stewart on Ray Briem's Talkradio Show

BRIEM: Wow.

STEWART: Including indictments.

<snip>

BRIEM: Peter, you're on KIEV with Ray Briem and Jim Stewart. Go ahead. <snip> CALLER: James Stewart, I very much enjoyed your book.

STEWART: Well, thank you.

CALLER: And, in fact, I'm rereading it. But I have to point out that your treatment of the Foster side of the issue is not really, uh, to uh, to my expectations. I wish that you'd be a little bit more skeptical. Please at least comment on this in the short time we have. It is a fact from the Fiske Report that there were no broken or chipped teeth even though the gun was deep in his mouth. There are no fingerprints on that gun, a gun he had to handle in a most strange way with his fingers. And finally, there is no dirt on his shoes and he had to walk 600 feet. Please, respond to these points, sir.

STEWART: Um, I had a little trouble hearing, hearing some of that.

CALLER: Oh, okay.

STEWART: But, you know, again, I do remember looking into the dirt on the shoes question for example. It was a very dry day. There was dirt in the area. But it seemed that it was at least possible that it wouldn't have stuck, um, to his shoes. Uh, and, you know, some of the other, other questions again, um.

CALLER: Fingerprints on the gun, no fingerprints on the gun. That really bothers me sir.

STEWART: You're certain there were no fingerprints on the gun?

CALLER: That's what the Fiske Report and Christopher Ruddy come out with and others have studied it and there's just nothing on there.

STEWART: Well, all I can say is that, you know, you know, I covered, I covered this, um, I went into many of the, of the supposed anomalies that came up. In each case I, the ones that I did look into, you know for example, why didn't, why wasn't the gun seen in his hand at the first time, I did find plausible explanations that were consistent with the verdict of suicide. I don't recall looking specifically into the issue of fingerprints, but, um, as I said before, it was his state of mind at being so depressed. It just to me, it flew in the face of all reasoning that someone that depressed would have coincidentally have run into, uh, foul play. But I did look, and particularly when I, the things that I did look into, I found ultimately I did not believe were inconsistent with the verdict of suicide.

Now I acknowledge that there are some peculiarities, that the, that the investigation was unprofessional, it was hasty, as I pointed out in my book the person in charge of it initially had never even done a homicide investigation. They didn't even get the, uh, ballistics test on the weapon until after they had rendered a verdict of suicide. There's much to be skeptical about and its understandable that people have had trouble accepting this, um, this conclusion. On the other hand, I would have, could have spent the rest of my life looking into that and I feel at some point you just take the weight of the evidence and you go with what you believe.

BRIEM: Very good, Peter, thank you. Uh, Mr. Stewart, its interesting in the past two or three weeks that Mr. Starr has appointed Stewart Parker [Ray undoubtedly meant to say Steve Parker] as a, as a homicide investigator to look into this, this whole aspect.

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STEWART: Yes, I'm, I'm aware of that. I think that's a good idea because I hope the Starr investigation will be thorough and will reach conclusions that satisfy people. I don't think it does anyone any benefit to have a mystery hanging out there when you're dealing with the death of, um, you know, the highest level government official ever to commit suicide, if suicide indeed is what it, what it turns out to be.

However, I wouldn't read into that they think its any, conclude its anything but suicide. My own understanding from my sources inside the Independent Counsel investigation is that they, they are, you know, done and I can't say this with any certainty, but that they too, I think, are tending in the direction that it's a suicide. But I welcome the appointment of a murder expert. I think they should bend over backwards to be absolutely definitive when they finally do issue a conclusion on this.

BRIEM: All right, let's take another call. We've got Allan on the line. Allan, you're on KIEV with Ray Briem and James Stewart. Go ahead.

CALLER: Hello there. Good afternoon gentlemen.

STEWART: Hello.

CALLER: Mr. Stewart, can you hear me?

STEWART: Yes, I can.

CALLER: I'm looking at, uh, pages 1646 through 1649 of Senate Hearings.

STEWART: Yes.

CALLER: Regarding the Foster death that were released publicly.

STEWART: Yes.

CALLER: And FBI typed notes of their interview with Lisa Foster and it is clear from these notes that they showed her a silver gun and told her that this was the one that was found in Fort Marcy Park. Yet the gun that was in the ABC-News released photo is a black gun with no silver on it.

STEWART: Mm, huh.

CALLER: And also, if you look at pages 2407 to 2412 in the Senate Hearings, volume 2, you see other photos of the totally black revolver. My question is, do you dispute, uh, any of this and why did you not tell your readers that the FBI showed Lisa Foster a silver gun when the official photos of the gun show a black gun, and can you come up with any innocent explanation for this discrepancy?

STEWART: Well, um, you know, again, I, I leave that to experts on that. But my impression was that it was the silver gun. There was a silver gun that Lisa Foster had packed back in Little Rock. It came to Washington. That there was a silver gun in, in the Fosters' possession, and that this was the gun that she was shown. I don't know if, precisely remember whether she, she identified it definitely as the gun that she'd brought or not. Um, in any event though, the photograph I, you know, I'm not sure that you know, sometimes silver, depending on the light and whatnot, can look black. And I, and I've never been personally convinced that this is definitively a different gun.

On the other hand, um, its quite possible that the FBI would show a silver gun to Lisa Foster, uh, that this being the gun that had come from Little Rock, or whatever. Maybe, maybe it is a different gun. I just feel that that doesn't in the end, um, obviously it does raise questions, if its two different guns, but I don't think its dispositive.

CALLER: But, uh, have you looked at, uh, pages 2407 to 2412 of the volume 2 of the Hearings which definitively show, uh, a totally black revolver?

STEWART: Well, again, I have these sitting here on my desk. I can look at them again, but as I recall the reproduction of the photograph isn't very good. And its very hard to tell short of actually seeing these weapons whether they're, whether they're the same or not and I, and I haven't actually physically seen these. I don't know, um, who has, but presumably the people in the Fiske investigation and now in the Starr investigation have the weapon and can reach that conclusion themselves.

BRIEM: All right, Allan.

STEWART: I did review all those FBI reports.

BRIEM: All right, Allan, thank you.

<snip>

Mr. Stewart may have trouble recognizing a totally black/dark blue gun in the official photos and in the ABC News/Time photo, but how does he explain the official eyewitness testimony and the official Park Police reports by John Rolla and by another officer, describing the official death gun as black/dark if the official death gun was silver as he speculates? Stewart actually said on the radio that "there was a silver gun in, in the Fosters' possession, and that this was the gun that she was shown." He said this while apparently ignorant of the fact that the official death gun was black/dark blue.

As far as I know, all the official eyewitness testimony regarding the official death gun describes it as no color other than black or dark. The official photos of the official death gun and the ABC News/Time photo show the official death gun as being totally black/dark blue.

Mr. Stewart must be confronted with the fact that the official death gun is black/dark blue and the fact that, as Stewart admits, Lisa was shown a silver gun by the FBI. When showing her the silver gun they either expressly told her or strongly implied that the silver gun she was being shown was the gun found with Vince in Fort Marcy Park. Mr. Stewart failed to reconcile these facts.

Mr. Stewart also must be asked to explain why Fiske wrote in his report that Lisa identified the official death gun when the death gun was officially black/dark blue and the gun upon which she based her identification was silver.

Even if one were to assume that Lisa was shown the black/dark blue official death gun by the FBI ten months after the death, and she said it may be Vince's silver gun, then Mr. Stewart should explain why Fiske used that obviously faulty identification as the basis for his conclusion that Lisa identified the official death gun as Vince's.

Mr. Stewart's book *Blood Sport* fails to answer these vital questions. In fact, in his book, Mr. Stewart's only reference to the color of any gun that might be the death gun, is to the color silver, when he describes how Lisa helped bring Vince's silver handgun to Washington from Little Rock.

Curiously, Stewart ignores all references in the official investigative record to the fact that the official death gun was not silver, but black or dark. One reference to the official death gun being black was in the sworn testimony of Park Police Officer John Rolla. However, in *Blood Sport*, when Stewart quotes that portion of Rolla's testimony, Stewart omits Rolla's reference to the gun's *black* color as reported by Rolla.

Obviously, it would have been ridiculous for Stewart to strongly imply in *Blood Sport* that the official death gun was silver, by describing how Lisa helped bring Vince's silver handgun to Washington and in the same book report Officer

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Rolla's eyewitness testimony that the official death gun was black.

So what did Stewart do? He omitted Officer Rolla's eyewitness testimony about the color of the official death gun. My best guess is that Stewart's omission was not intentionally done to deceive, but rather, was the result of poor scholarship.

Any further printings of *Blood Sport* should correct Stewart's failure to deal properly with the gun color issue. After being alerted to the problem on Ray Briem's talk radio show on April 30, 1996, Stewart should act like the Pulitzer Prize winning journalist he is, and correct his mistakes.