

AIM Report: Was Cliff Baxter Out of His Mind?

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Did J. Clifford Baxter, the former Enron vice chairman, kill himself one day before the expiration of a clause in his \$5,000,000 life insurance policy that voided the policy if he committed suicide? An 887-page report recently released by the Sugar Land Police Department on their investigation of Baxter's death says there is no doubt that he committed suicide. Baxter was found dead at 2:23 a.m. on January 25, 2002, with a gunshot wound in his head and both hands and the gun on his lap.

The policy had been taken out by Enron on January 25, 2000. It included a clause that barred payment if the insured took his own life within two years. Thad Bumstead, an investigator working for the insurer, Transamerica Life, told the police it was his understanding that Baxter died on the last day this clause was in effect. Another Transamerica employee told AIM that payment was being contested. Did Baxter think that the contestability clause had expired at midnight? Did he rush to kill himself a few hours later? He must have been out of his mind to kill himself without making sure that the clause had expired and his beneficiaries would collect the \$5 million. He may not have been responsible for his own actions.

Maybe Drugged Out Of His Mind

The 887-page report includes copies of two letters AIM sent to the Sugar Land chief of police that explain why he should insist that the Harris County medical examiner, Dr. Joye Carter, complete her toxicology report by filling in the blank where the amount of Ambien found in Baxter's blood should have been entered. Overdoses of Ambien, a potent sleeping pill, can produce a hypnotic trance or a light coma. Baxter's prescription, which he obtained and had filled on January 23rd, called for him to take one tablet a day. But the police found five tablets missing from the bottle on January 25th, three more than he should have taken.

This means that it is possible that he ingested as much as four times the prescribed dose on the night of January 24. That would not have come close to killing him, but Dr. Ronald Graeser, a forensic pathologist, a former medical examiner and a licensed physician, has given us this statement: "I reviewed the autopsy, toxicology and police reports concerning the death of J. Clifford Baxter. A very significant finding in that investigation is the finding of zolpidem (Ambien 7) in his blood. It is also significant that in the 36 hours from the time he purchased the Ambien 7 until he was found dead, five Ambien 7 pills are missing. It is assumed that he ingested all five pills. Ambien 7 may well have rendered him incapable of performing any voluntary, purposeful actions, especially if he overdosed on it, taking four of the five pills on the night of his death. If he was not capable of performing any voluntary, purposeful actions, then he was not capable of committing suicide. Therefore it is of paramount importance that the level of Ambien 7 in his blood be determined before a ruling of suicide be made as his manner of death." Dr. Graeser has said that the overdose would render Baxter incapable of driving a car and would have made him highly vulnerable to manipulation by others.

The Sugar Land Police Scenario

According to the police report, his wife, Carol, said that he went to bed on Jan. 24 at 9:15 p.m. and that two hours later when she went to bed he was snoring. She said she was pleased to finally see him get a good night's sleep. Based on what they were told by his wife and Scott Head, the deputy constable who found Baxter's body, the police came up with the following scenario. He woke up at about 2:00 a.m., loaded his Smith and Wesson .357 magnum five-shot revolver with five Remington Peters Special Glaser cartridges, arranged some pillows under the bed covers to make his wife think he was still in their bed, wrote a brief suicide note, sealed it in an envelope, left it in his wife's car and drove his Mercedes a few blocks down Palm Royale Blvd., parked between two medians, and shot himself in the head.

Scott Head, a deputy county constable, found his body inside his locked car at 2:23 a.m. Head said he was driving east on Palm Royale and had seen the Mercedes going west with only the driver in the car. According to the police, Head said that because of the hour, he made a U-turn to follow the car and a few minutes later he saw it parked. He pulled up behind it to check it out and saw that the driver had been shot in the head. This raises some questions. Why would he reverse course to track a Mercedes being driven in the opposite direction at 2:15 a.m. in a wealthy area? Both cars had to be going very slowly for him to see that only the driver was in the Mercedes, and even that is dubious. The medians are 28 feet wide. Head told Houston Chronicle reporter Eric Hanson that he reversed course when a friend called and suggested they meet for coffee. At first the police said the time between the two sightings was 15 minutes, then 3 to 5 minutes and lastly 2 to 3 minutes. The differing versions of his story make it suspect. What he told Hanson is more credible than what he told the police. Dawn Traver says that she saw the Mercedes parked at 1:30 a.m. Head probably noticed it when he passed by, got the coffee call, reversed course and seeing it still parked where he first saw it, stopped to check it out.

From the windows in the back of her house Mrs. Traver has an unobstructed view across a vacant lot of the median where Baxter's car was parked. She estimates the distance as being equal to half a football field. She told AIM that she was watching TV and had gone to the bathroom at about 1:30 a.m. Looking out the window she noticed a dark-

colored luxury car parked between two well-lighted medians. She said cars frequently stopped there to make cell phone calls or check maps. She said she went back to watching TV, dozed off, woke up at about 2:30 and noticed flashing lights through her window. She looked out and saw several official vehicles and what appeared to be the same car she saw there an hour earlier.

She told reporters who were gathered at the scene the next day what she had seen and was interviewed on TV. She said that she did not think anything was wrong when she first saw the car because "it looked like it belonged in the area." She also said she believed the car's lights were on but she was not sure. The police did not call her. She called them. Their report tells her story, but it doesn't clearly explain how she could see the car when her house is not on Palm Royale. They don't question her veracity, but they give her story no credence. If Head's story is true, there can be no doubt that Baxter killed himself. If Dawn Traver's story is true, it opens the door to the possibility that Baxter did not kill himself.

Baxter's Mental State

The insurance policy alone is reason enough to doubt that Baxter planned to kill himself on January 25. He was much too savvy to make a mistake that would deprive his family of an insurance payment of \$5,000,000. It is clear that he was depressed, but he was not out of his mind. His wife told the police that he had been depressed for "the last couple of weeks." On January 22, he had his eyes examined and bought four new pairs of glasses, indicating that he was planning for life, not death. The next day he saw Dr. Kirk Lee, who gave him two prescriptions, one for Celexa, an anti-depressant, and the other for Ambien, a sleeping pill. He was supposed to take one 10-mg. tablet of Ambien just before going to bed, but on January 25, Detective Billy Baugh found five tablets missing from the bottle of 30. When the police asked Dr. Lee about this, he told them that patients sometimes take more than the prescribed dose. There is no indication in the report that the police were told that overdoses of Ambien can, in the words of Dr. Graeser, make the patient "incapable of performing any voluntary, purposeful actions." At Baxter's request, Dr. Lee gave him the name of a psychiatrist. His wife thought he had made an appointment to see him on Jan. 25. The psychiatrist's receptionist said Baxter had called for an appointment but had lost interest when he was told that the earliest date available was in February.

Eric Singer, a long-time friend of Baxter's, told Detective Baugh about a lengthy phone conversation he had with Baxter in mid-January. Singer said Baxter "told him that he thought everything would be all right, and after everything was done he hoped to have his properties and 5 to 10 million dollars." Baugh's report says, "Cliff mentioned something about going to jail, but Singer said it sounded like Cliff was not worried that he would have to go to jail. Singer said that Cliff stated that he wanted to be a professor at a university and teach history. He said Cliff never said anything about committing suicide and that he was making plans for the future. Singer said Cliff said his career was shot."

Baugh also reported a phone call he had from another friend of Baxter's, Brad Mitchell, a former Enron employee. Mitchell had described a phone conversation he had with Baxter on January 16th or 17th. They had discussed what was happening to Enron. He quoted Baxter as saying, "I am named in about 40 lawsuits because I was there and my name was around. Actually, I was not officially part of the Office of the Chairman, which pissed me off at the time, but now I'm glad about it." Mitchell said he "did not sound depressed, distraught or terribly disturbed when talking of these matters."

Baxter had ordered a new boat before the Enron scandal started. Contrary to what we and others have previously reported, it was a smaller boat than the 72-foot yacht he owned. An unconfirmed report that he was very excited and involved in planning the decoration of his new and larger yacht on the last day of his life has been proven false. His wife told the police that he had canceled the purchase. Bill McCormack of Galati Yacht Sales in Florida, the dealer who had the order, told AIM that Baxter had canceled it in the week before his death. His wife also told Baugh that a meeting Baxter had with someone at Rice University about a teaching job had not gone well because of his Enron connection.

In an article on June 25, the Wall Street Journal showed that persons who suffer from severe depression sometimes go to great lengths to hide it from friends and co-workers. It is possible that Baxter was more deeply depressed than his friends and perhaps even his family knew. There is certainly more evidence of depression in his case than in Vincent Foster's. The anti-depressant Foster's doctor prescribed for him was not a therapeutic dose. It was to help him sleep. In Baxter's case, his doctor gave him prescriptions both for Celexa, an anti-depressant, and for Ambien.

Police Scenario Controls Evidence

The Ambien is one of three strong reasons for questioning the police scenario for Baxter's suicide. If he were planning to leave the house and kill himself on January 24th after his wife and children had gone to sleep, Baxter would not have taken any Ambien. If he did, he couldn't count on being able to wake up at 1:00 or 2:00 a.m., and he couldn't set an alarm because that would wake up his wife as well, making it impossible to carry out his plan. If he ingested the three missing Ambien tablets that night, he would have been drugged out of his mind and could not have done what the police say he did. That is why it is vital to this case to determine from the level of Ambien in his blood how many tablets he ingested.

The refusal of Dr. Joye Carter, the medical examiner who performed Baxter's autopsy, to provide that information suggests that she knows the level was high enough to cast serious doubt on her suicide finding. The toxicology report should have given the amount of Ambien found in his blood. Was Baxter drugged out of his mind? The police did not dispute the claim that it was possible, but they have ignored AIM's recommendations that they demand the analysis that would answer the question.

Where Did The Ammo Come From?

Their report shows that they weren't interested in evidence that challenges the suicide theory. For example, they knew that it was important that Baxter owned the gun that fired the fatal shot and the type of ammunition that was used. They found that he bought the gun, a Smith and Wesson .357 magnum, in February 2001, together with a box of Winchester .38 cartridges.

But the ammo that killed him was Remington Peters Special Glaser, which fires a lot of small pellets instead of a lead slug. It is sold in blister-packs of six. Five cartridges, one expended, were found in the gun. The sixth could not be found. Officer Mary Herbrig, in thanking the detective who found the Winchester cartridges in Baxter's house, said, "I sure wish they had matched what we recovered." They made an extensive search for evidence that Baxter had purchased Glaser ammo. They asked the banks that issued his credit cards to check their records of his purchases to see if he had bought any .38 caliber ammunition between February 27, 2001 and January 24, 2002. They haven't reported the responses from the banks, which means that the results were all negative. With a box of Winchester cartridges in his house Baxter had no reason to buy more. If Baxter had no Glaser ammo, who provided it? Someone who wanted him dead? The police knew this was a problem, but they made no effort to find the answer.

Their report says that the gun was found lying in Baxter's lap on top of his hands, both palms up. They say he pulled the trigger with his right hand and steadied the 3-inch barrel with his left and that the blood spatter shows he was facing forward when he pulled the trigger. The recoil would have thrown the gun from his hand to his right and his hand would have dropped to his side. Finding both hands and the gun on his lap should have set alarm bells ringing because that would be indicative of an attempt to disguise a homicide as suicide.

Evidence Of Forgery

Officer Mary Herbrig pointed out that they had too few samples of Baxter's known handwriting to obtain a conclusive finding that he wrote the printed suicide note. The Department of Public Safety (DPS) said only that there were "indications" that Baxter wrote the note. That was a generous comment. They had only one page of a known sample of Baxter's block printing. Three more pages with known samples of his script were provided.

The DPS has sent us copies of these four samples. All appear to be notes written when he was working at Enron. They show that his handwriting and printing were very legible and neat. Three of the samples were written on lined legal pads, but even the words not written on the lines are usually well aligned, uniformly spaced and the same size. That is not true of the alleged suicide note. Our analysis of the one known sample of Baxter's block printing convinces us that Baxter did not write the alleged suicide note. Comparing several of the individual letters found in both documents shows the note is a poor forgery. We show below the differences between three letters, the G's, Y's and M's. The left column shows words with these letters from the alleged suicide note. The right column shows words in the exemplar, the known sample of Baxter's writing, containing one or more of these letters. The words are inverted because this makes it much easier to see differences.

NOTE EXEMPLAR

G's

The G's in the note are painstakingly drawn to get in the last two strokes, with the result that they appear exaggerated when compared to the exemplar. In all six cases, the first down stroke begins so far to the right that when inverted it looks like a laid-back 9. Baxter's look more like a closing parenthesis preceded by an apostrophe.

Y'S

When inverted Baxter's Y's usually look like lower-case h's with an elongated initial stroke usually slanting from left to right. In the note, that stroke is not as long and is either vertical or slanting from right to left. They are more drawn than written.

M'S

When inverted Baxter's M's almost always appear to be H's, but only one of the four M's in the note when inverted looks like an H, two look like W's a fourth falls somewhere in between.

Important Unreported Evidence

The DPS statement that there were indications that Baxter wrote the note was no doubt influenced by the fact that it was written on his stationery and his DNA was found on the envelope. That could be explained by someone moistening the flap with his saliva when he was drugged. If he handled them his fingerprints should have been on both the note and the envelope. The police deferred examining them for fingerprints until they got them back from the DPS. They have not reported the results, which is an indication that they did not find Baxter's prints on either one.

Nor does their report say they found proof that the shards of glass found in Baxter's hair and clothing came from the car window that was broken by the police to gain entry. The police sent samples of the glass found in his hair and the glass from the car window to the DPS Crime Laboratory in Houston. They reported on April 22 that they expected to get the results within a week. The Houston laboratory told AIM they do not do analysis of glass, but their lab in Austin does. It appears that they were no more interested in getting that analysis than they were in getting the level of Ambien in Baxter's blood, perhaps for the same reason.

Police List Of Suicide Evidence

1. Baxter hid the fact that he was leaving home prior to his death by placing pillows in the bed to give the appearance he was still asleep.
2. Deputy Constable Scott Head says he saw Baxter's car being driven by a lone driver 2 or 3 minutes before he found it parked with Baxter's body and his hands on his lap holding a gun.
3. The gun belonged to him.
4. Evidence of gunpowder residue was found on his hands.
5. The ammunition that killed him was fired by his gun.
6. Blood spatter patterns show that he was alone in the car.
7. His wife told the police she believes Baxter disabled the burglar alarm chime before retiring so it would not wake anyone up when he left the house early in the morning.
8. A suicide note printed on one of his personalized cards was found in a sealed envelope which DNA analysis showed had been moistened with his saliva.
9. The Department of Public Safety said there were indications that he had written the note.
10. The medication found in his system was consistent with that which was prescribed by his doctor and which he purchased. The autopsy found nothing that would lead to any finding other than suicide.

Evidence Against Suicide

1. It is extremely unlikely that Baxter killed himself only hours before the clause in his \$5,000,000 life insurance policy that voided the policy if he committed suicide expired.
2. The police found a box of Winchester .38 cartridges in Baxter's home, but they could find no evidence that he ever bought or possessed the Glaser cartridges that were in the gun.
3. Baxter may have ingested four times the prescribed dose of Ambien a few hours before he died, making him unable to drive. The authorities won't say how much Ambien was in his blood.
4. Even if Baxter took only the prescribed one Ambien tablet, it is highly unlikely that he would have spontaneously awakened in the middle of the night from his deep sleep.
5. If Baxter took as much as 40-mg. of Ambien, he could have been easily manipulated by others, and his saliva could have been used to moisten the flap of the envelope in which the suicide note was found.
6. The obvious differences between Baxter's block printing and the note show he didn't write the note. The failure of the police to find his fingerprints on the note confirm this conclusion.
7. The small pieces of glass found in Baxter's hair and on his clothing were not tested to see if they came from the glass in a window of Baxter's car that was broken by the police. The police knew that this had to be done, but they sent the samples of glass to a crime lab that does not do glass analysis.
8. Deputy Constable Head's claim that he saw Baxter driving his car a few minutes before he found the car parked with his dead body inside conflicts with Dawn Traver's claim that at 1:30 a.m. she saw the car parked where Head found it at 2:23 a.m. The story Head told the police to explain the U-turn that took him to Baxter's car differs from what he told a reporter, is highly implausible and is contradicted by Dawn Traver's claim that she saw the car parked at least 40 minutes before Head found it. The police have no basis for believing Head rather than her.
9. The blood spatter patterns do not preclude someone having manipulated a drugged Baxter from the back seat.

Flaws In The Investigation

The police insist that there is no evidence pointing to anything except suicide even though the efforts they made to find evidence that he had possessed the Glaser ammo showed that they realized that the lack of that evidence could be seen as evidence of homicide. They have refused to demand the results of lab work that might point to homicide and failed to have lab work done that might have provided such evidence.

As in the Vincent Foster case, what convinced the police that they were dealing with a suicide-finding a gun in the victim's hand-should have convinced them that they should investigate it as a homicide. In committing themselves to a suicide scenario from the first day, they swept aside the evidence to the contrary, failed to have laboratory work performed that should have been done, failed to ask questions that should have been asked, and did not do justice to Cliff Baxter and the beneficiaries of his insurance policy who might have been able to collect \$5,000,000 if the police had given any serious consideration to the evidence that pointed to homicide.

What You Can Do

Send the enclosed cards or your own cards or letters to [Howell Raines](#) ^[1], [Executive Editor](#) ^[2] of the New York Times, to Earnest Taylor, [Chief of Police](#) ^[3], Sugar Land, Texas, and an editor of your choice.

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[1] Howell Raines: http://www.aim.org/publications/aim_report/2002/postcards/12/raines.html

[2] Executive Editor: http://www.aim.org/publications/aim_report/2002/postcards/12/editor.html

[3] Chief of Police: http://www.aim.org/publications/aim_report/2002/postcards/12/chief.html