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Scalia's breathing machine sat unused on bedside table, sheriff's report says

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The days after Supreme Court Justice Antonin Scalia died at a Texas hunting ranch were marred with confusion and speculation. The Presidio County Sheriff's Office released an incident report late Tuesday night in response to a records request made by *The Washington Post*.

Here are the most striking details from it:

Jurisdiction concerns:

Sheriff Danny Dominguez says Cibolo Creek Ranch owner John Poindexter reported the death at the ranch near Marfa but refused to tell the sheriff who had died.

"I then advised Poindexter that a death reported in Presidio County was under my jurisdiction and that it should be reported to my office," Dominguez said in his report. "He then stated to me that this death was way beyond my authority and that it should go to the feds."

The sheriff relented and agreed to put Poindexter in touch with the U.S. Marshals Service. Dominguez met the marshals at the ranch and also contacted County Judge Cinderela Guevara, who would later pronounce Scalia dead from natural causes — without seeing his body.

The sheriff went on to document what he saw in Scalia's room at the ranch.

A breathing machine

According to the sheriff's report, Scalia was lying in bed with his arms at his side and his bed covers smooth. Nearby was his suitcase, which was open and full of neatly folded clothes.

Only one thing appeared amiss: a breathing apparatus. The small device, called a Continuous Positive Airway Pressure (CPAP) machine, was on the nightstand next to him — but unplugged and not turned on.

Many who suffer from sleep apnea find CPAP masks uncomfortable.

The finding has sparked speculation that Scalia may have forgotten to use it that night.

The cause of his death hasn't been definitively given but the Presidio County Sheriff's Office has said there's no evidence of foul play and his doctor has noted that the former justice had numerous serious health problems, including heart disease, diabetes and high blood pressure.

Scalia is also one of an estimated 22 million Americans who suffered from sleep apnea, a potentially life-threatening condition caused by either a blockage of the airway or a signaling issue from the brain regarding breathing during sleep. This can cause someone to stop breathing — for a second, a minute or more — up to hundreds of times each night.

The most commonly used treatment is a CPAP, which consists of a machine that supplies steady air pressure, a hose and either a mask or nose piece that regulates breathing. Many doctors liken CPAP machines to blood pressure medications. That is, they should be used as regularly as possible but do provide some benefit even if they aren't in use.

Experts say the chance of death from skipping a single day is tiny, and patients can and do take breaks because they have a cold, forget to take the machine on a short trip, or because the masks are irritating. Typically, the only immediate ill effects are snoring and possibly getting up at night gasping.

Scalia's traveling companion named

C. Allen Foster, a longtime Washington lawyer and friend of the late justice, was on the hunting trip with Scalia, according to the incident report. Authorities and the Cibolo Creek Ranch management declined to identify him, only describing him as "a close friend of Scalia."

Foster, a 74-year-old Louisiana native, is a prominent lawyer. In 1993, he went before the Supreme Court to argue a case on behalf of Hispanic Republicans in Florida who said the state's reapportionment plan diluted their voting strength. During the argument, Scalia didn't spare Foster, asking him the sort of tough questions he was known for flinging at lawyers from the bench.

The court ruled that voting rights had not been diluted. Scalia, along with Justice Clarence Thomas, dissented on procedural grounds.

It is not clear when Scalia and Foster became friends. Legal specialists said the trip Scalia and Foster took to the Texas ranch raised no ethical concerns, calling it common for judges to socialize with lawyers in the close-knit fraternity of elite legal practitioners. Only if Foster had a pending case before the Supreme Court, they said, would there have been an issue.

Over the years, his eclectic group of clients has included the Republican Party, the libertarian Cato Institute, plaintiffs enslaved by Japanese corporations during World War II, and the former Blackwater Security Consulting, which was involved in a series of questionable incidents, including a 2007 shootout in Iraq that killed 17 Iraqis.

A society gathering

A review of public records shows that some of the men who were with Scalia at the ranch are connected through the International Order of St. Hubertus, whose members gathered at least once before at the same ranch for a celebratory weekend.

Members of the worldwide, male-only society wear dark green robes emblazoned with a large cross and the motto "Deum Diligite Animalia Diligentes," which means "Honoring God by honoring His creatures," according to the group's website. Some hold titles, such as Grand

Master, Prior and Knight Grand Officer. The order is named in honor of the patron saint of hunters and fishermen.

Foster and Poindexter, the ranch owner, hold leadership positions within the order. It is unclear what, if any, official association Scalia had with the group.

“There is nothing I can add to your observation that among my many guests at Cibolo Creek Ranch over the years, some members of the International Order of St. Hubertus have been numbered,” wrote Poindexter in an email to *The Washington Post*. “I am aware of no connection between that organization and Justice Scalia.”

A lawyer for the Scalia family did not respond to requests for comment for this story.

The U.S. chapter of the International Order of St. Hubertus lists a District of Columbia suite on M Street Northwest as its headquarters, though the address is only a mailbox in a UPS store.

The International Order of St. Hubertus, according to its website, is a “true knightly order in the historical tradition.” In 1695, Count Franz Anton von Sporck founded the society in Bohemia, which is in modern-day Czech Republic.

The group’s Grand Master is “His Imperial Highness Istvan von Habsburg-Lothringen, Archduke of Austria,” according to the order’s website. The next gathering for “Ordensbrothers” and guests is an “investiture” in Charleston, S.C., on March 10.

The society’s U.S. chapter launched in 1966 at the famous Bohemian Club in San Francisco, which is associated with the all-male Bohemian Grove — one of the most notorious secret societies in the country.