

Chappa

Associated Press

quiddick Revisited

By Michael Putzel and Richard Pyle

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Putzel and Pyle, members of the Associated Press Special Assignment Team, spent eight months investigating Sen. Edward Kennedy's 1969 accident on Chappaquiddick Island.

EDGARTOWN, Mass. (AP)—In the six years since Mary Jo Kopechne died in an automobile accident on tiny Chappaquiddick Island, questions, investigations, doubts and rumors have dogged the career of the last Kennedy brother.

Many of those involved insist that it was just an automobile accident, that the case should be closed publicly, as it was legally years ago.

But it wasn't just an automobile accident. It involved one of the most famous men in America, a man thought destined to pick up the fallen standard of his brothers and seek his nation's highest office.

Despite Sen. Edward M. Kennedy's repeated disavowals of intentions to seek the presidency in 1976, he remains an influential force in American politics and, potentially, the most powerful figure in the Democratic Party.

His own account of Chappaquiddick

does not depict a hero emerging from crisis but a man whose actions were, in his words, "irrational and indefensible and inexcusable and inexplicable."

Kennedy's early attempts to explain his conduct raised questions that begged for more answers—answers that were not forthcoming then and, in some cases, remain shrouded by conflicts, gaps and the long silences of the senator and those closest to him during the 12 hours of Chappaquiddick, July 18 and 19, 1969.

The Associated Press set out to seek answers to those questions.

The investigation discovered that a deputy sheriff, whose testimony most directly contradicted the senator, embellished his story at least three times and that each time it became more damaging to Kennedy. The new findings tend to support Kennedy's version, at least by implication.

But the probe also found evidence that suggests some events could not

have occurred as they were described by Kennedy and certain of his associates in public statements and court testimony.

Freshly obtained information about tidal currents indicates the senator did not swim the harbor between Chappaquiddick and Martha's Vineyard at the time he says he did, or the current was not as he described. And the record leaves unexplained how Kennedy and two of his friends could have failed to encounter each other walking on a road shortly after the accident.

The AP's investigation arrived at a number of other findings, some tending to support Kennedy's story and others not:

- There is no evidence that the party attended by Kennedy, Miss Kopechne and 10 others was other than an innocent gathering, despite rumors and innuendos to the contrary.

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• There is no evidence that Kennedy was drunk when he left the party, but Miss Kopechne, not normally a heavy drinker, had at least two strong drinks in the hour before she died.

• The weight of the testimony suggests that Kennedy left the party about 11:30 p.m., within 15 minutes of the time he said he did, and that the accident occurred only minutes later.

• Although there is no evidence that Kennedy and Miss Kopechne were romantically involved, several factors suggest the two did not intend to return immediately to Edgartown from the party as Kennedy claims.

• There is no evidence that Kennedy was not in the car when it plunged off the bridge, as theorized first in Jack Olsen's book, "The Bridge at Chappaquiddick," and adopted later by a number of other writers. Inasmuch as Kennedy was the only known witness to the accident, his account of the crash and his attempt to rescue Miss Kopechne must stand on its own.

• Kennedy has insisted in every public statement about the accident that he does not know how he got out of the submerged car. But in an affidavit signed by a doctor who examined him, Kennedy is quoted as saying he escaped through a window.

• Kennedy testified that, accompanied by two friends, he returned to the bridge, arriving there at 12:20 a.m., and that he thought he knew the time by looking at a car's dashboard clock. But the car had no clock, and there is no evidence to indicate how he could have known the time.

• Kennedy and his two companions testified that, after failing on their own efforts to rescue Miss Kopechne, their primary concern was the need to report the accident to police immediately. Yet they did not use a telephone that one of them knew was located only a few feet from where they were talking.

• Miss Kopechne probably died within minutes and, contrary to claims by some critics of Kennedy's actions, no rescue attempts after his initial try could have saved her.

• Kennedy paid \$90,923 from his own pocket to Miss Kopechne's parents in a financial settlement, but there is no evidence anyone was paid for silence about Chappaquiddick.

The Reunion

JOSEPH F. GARGAN, a Boston lawyer who is Kennedy's first cousin and has been a close friend since boyhood, says it was his idea to throw a party for Kennedy campaign people during Edgartown regatta weekend on the island of Martha's Vineyard off the Massachusetts coast.

Those invited came from two distinct campaign corps. The women were the now familiar Boiler Room Girls, who had worked long hours during the brief presidential campaign of Robert F. Kennedy, assassinated 13 months before.

Of the original eight Boiler Room Girls, six arrived for what was to be the second reunion within a year. All single and in their 20s, the women had worked closely together but didn't socialize much with each other outside the office. What they had most in common was their devotion to Bobby Kennedy.

Four of the men, including Gargan, had worked in Edward Kennedy's Senate campaign. The senator was there, as was his chauffeur.

Questions have been raised about the propriety of this gathering of six single women and six men, all but one of whom were married. But there is no evidence that it was anything but a casual reunion of campaign friends.

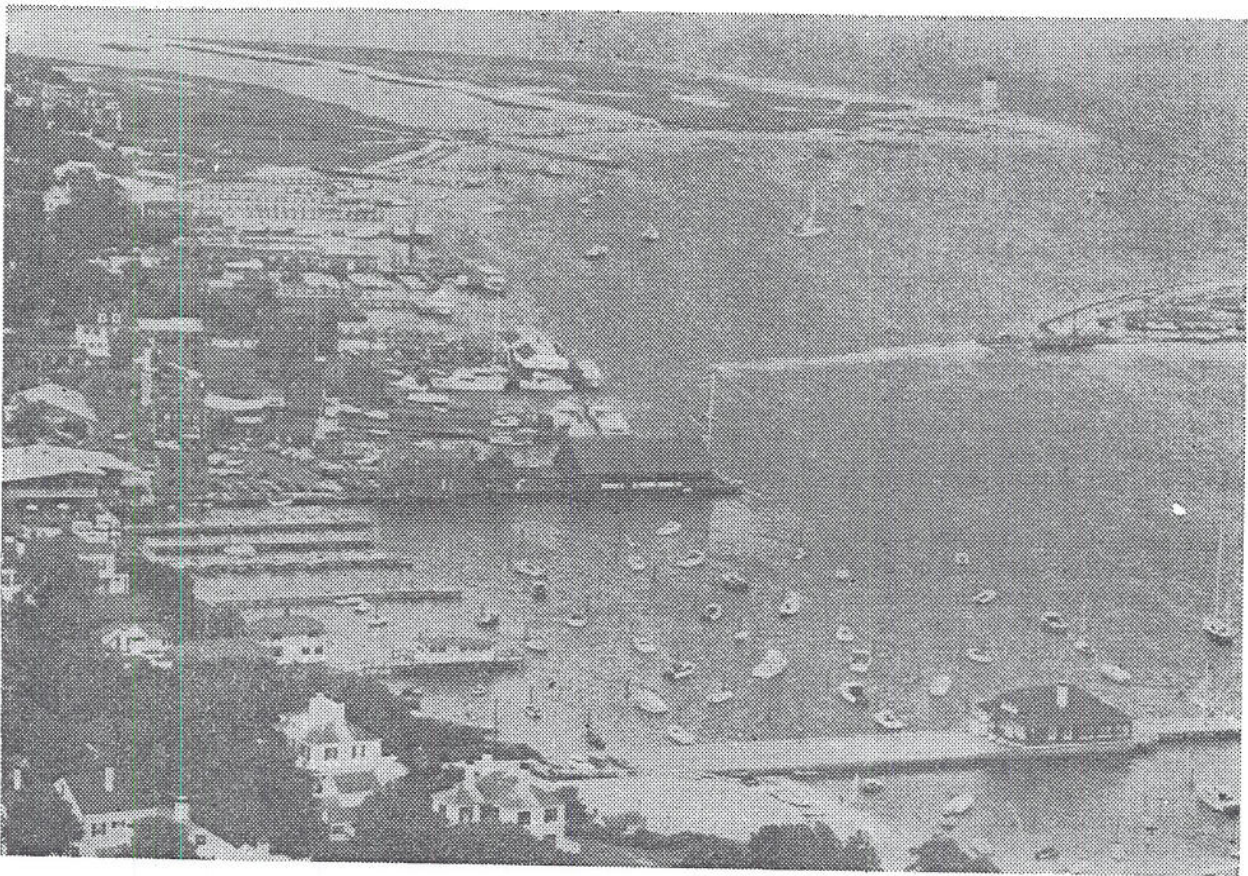
The record is rife with conflicts and inconsistencies concerning time references and what persons attending the party recalled as having taken place. As with most such gatherings, no one was recording the precise times of the participants' comings and goings. Conflicts and inconsistencies also appear in the testimony of police officers and other witnesses who drifted in and out of the story of that weekend.

Memories fade with time, making it difficult to establish exactly what happened. But much can be learned by a close examination of the voluminous record, and what follows are the best available answers to the key questions about how Mary Jo Kopechne died and how Kennedy and his associates behaved in the hours after the tragedy.

Drinking at the Party

KENNEDY TESTIFIED to having had two drinks—both rum and Coke—at the party on Friday night, the last one at about 9:15 p.m. No one testified to having seen him drink more than that or to having observed him in an inebriated state.

Most of the other partygoers testified to having had two drinks. Miss Kopechne, according to a postmortem blood test, had .09 per cent alcohol in her blood. A chemist, John McHugh, testified she would have to have drunk at least 3.75 ounces (two generous drinks) of hard liquor in



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The Chappaquiddick ferry landing is at right, across the channel from Edgartown. Kennedy said the tide swept him toward the Edgartown lighthouse, at top.

the hour before she died and quite possibly more, particularly if she had been drinking over a longer period of time.

Undisputed testimony by John B. Crimmins, Kennedy's chauffeur, about how much liquor he brought to the cottage and how much he took away has led some investigators to suggest there was more drinking than was admitted to by the partygoers.

However, the AP discovered an obscure mention in the court record showing that eight people gathered at the cottage the previous night and drank from the same liquor supply. Assuming that generous drinks were poured both nights, the liquor consumed averaged slightly more than two drinks per person.

Kennedy's Departure

THE APPROXIMATE time that Kennedy and Miss Kopechne left the party is crucial to the senator's account because of a conflict that developed later over when the accident could have occurred. And on the departure time, the testimony of the other partygoers is consistent. All placed the pair's departure between 11 and 11:45 p.m. The senator, who wasn't wearing a watch, said he left at 11:45 p.m.

The two witnesses whose recollection about the time was most precise testified that Kennedy and Miss Kopechne drove away from the cottage at about 11:30 p.m.

Where Were They Going?

THERE IS no evidence that Kennedy and Miss Kopechne were romantically involved, yet doubt persists about his claim that they planned to return immediately to their respective hotels in Edgartown.

One skeptic was District Court Judge James A. Boyle who, in his report on the inquest into Miss Kopechne's death, inferred "a reasonable and probable explanation . . . that Kennedy and Kopechne did not intend to return to Edgartown at that time, that Kennedy did not intend to drive to the ferry slip and his turn onto Dike Road was intentional."

There are several factors pointing to such a conclusion:

- Crimmins testified that Kennedy called him out of the cottage and asked for the keys to the Oldsmobile. The senator told him, Crimmins said, that he was returning to Edgartown and would drop Miss Kopechne back at her hotel because she wasn't feeling well, having had too much sun at the beach that afternoon.

But Miss Kopechne's friends at the party testified later that she had said nothing to them about not feeling well.

Kennedy did not mention any such statement in his testimony — only that "she indicated to me that she was desirous of leaving if I would be kind enough to drop her back at her hotel." In an interview with the AP during this study of the Chappaquiddick case, Kennedy said he had no recollection of Miss Kopechne saying she didn't feel well, nor any recollection of having told that to Crimmins.

- Neither Kennedy, whose presence was the highlight of the party, nor Miss Kopechne said goodbye to any of the others when they left the cottage, supposedly for the night.

- When Miss Kopechne drove away with the senator, she left her purse behind. It was found under a table in the cottage the next morning.

- Miss Kopechne did not have her motel room key with her when she left the cottage. "I think I had it," said Esther Newberg, who was sharing a motel room with Miss Kopechne that weekend. But Miss Kopechne did not ask her for the key before she left.

Leaving the cottage, Kennedy and Miss Kopechne drove northeast along the two-lane blacktop road that is the main street of Chappaquiddick and the most practical route from the cottage to the ferry landing about 3 miles away.

A half-mile from the cottage, the road makes a sweeping left-hand curve marked by a sign with an arrow and a white center line.

But instead of following the curve, Kennedy made a sharp right turn onto Dike Road, a dirt and gravel road which runs seven-tenths of a mile to an old wooden bridge spanning Poucha Pond and ends before reaching the dunes and ocean beach beyond.

The isolated bridge area is used primarily by swimmers and fishermen by day and as a lovers' lane at night. Most of the partygoers, including Kennedy and Miss Kopechne, had ridden back and forth across the bridge once earlier that day to swim at the beach.

Kennedy has insisted he turned onto Dike Road by mistake, because he was unfamiliar with the island and believed the road led to the ferry.

However, a driver must make a conscious decision to slow down and turn hard right onto the dirt washboard surface of Dike Road rather than follow the curve of the pavement to the left.

The little bridge, built some 35 years ago to replace a dike that once separated Poucha Pond from Cape Poge Bay, is a highway engineer's nightmare — 81 feet long and 10½ feet wide, with low rub rails for tires but no guard railings. Despite the hazard, there is no record of any car but Kennedy's ever having gone off the bridge.

Approaching the narrow, unlighted, unmarked span with its sharp angle to the left, the Oldsmobile skidded 33 feet up the wooden ramp, jumped the 4-inch-high rub rail on the right and flipped over into the water.

The car came to rest on its roof in 6 to 8 feet of water, nose toward the bridge. A state Motor Vehicle Registry investigator estimated its speed at the time of the crash at 20 to 22 miles an hour.

Kennedy testified that he didn't realize until the moment his car went off the bridge that he had taken a wrong turn. He has insisted since then that he paid no attention to the change in the road surface and didn't know he was heading away from the ferry instead of toward it.

However, Paul F. Markham, a Kennedy friend and former federal prosecutor, testified that as the senator was explaining details of the accident to him the next morning — before speaking to anyone else about it— Kennedy said he realized he had taken a wrong turn but couldn't find a place to turn around.

Kennedy, when asked by the AP about this conflict, said: "I don't have any memory on that."

In fact, there are a number of driveways off Dike Road and a space at the bridge approach which could be used to turn a car around.

Kennedy swore he had never driven the road before and that Crimmins had been at the wheel earlier that day. The senator said he paid no attention to the road, a statement supported by Gargan's remark to the AP that when the chauffeur is driving, "Ted never pays any attention to what is going on around him."

But Judge Boyle's inquest report said, "I believe it probable that Kennedy knew of the hazard that lay ahead of him on Dike Road, but that, for some reason not apparent from the testimony, he failed to exercise

due care as he approached the bridge.

"If Kennedy knew of this hazard, his operation of the vehicle (at 20 miles an hour) constituted criminal conduct."

Despite his finding that Kennedy probably was negligent and appeared "to have contributed to the death of Mary Jo Kopechne," Judge Boyle did not formally charge the senator with a crime, which he was authorized to do.

The only charge brought against the senator was filed by the local police chief, Dominick J. Arena, a few days after the accident. The charge was "leaving the scene of an accident after causing personal injury without making his presence known."

Kennedy pleaded guilty, and Judge Boyle sentenced him to two months in jail and a year's probation, both suspended. In addition, his driver's license was automatically revoked for one year.

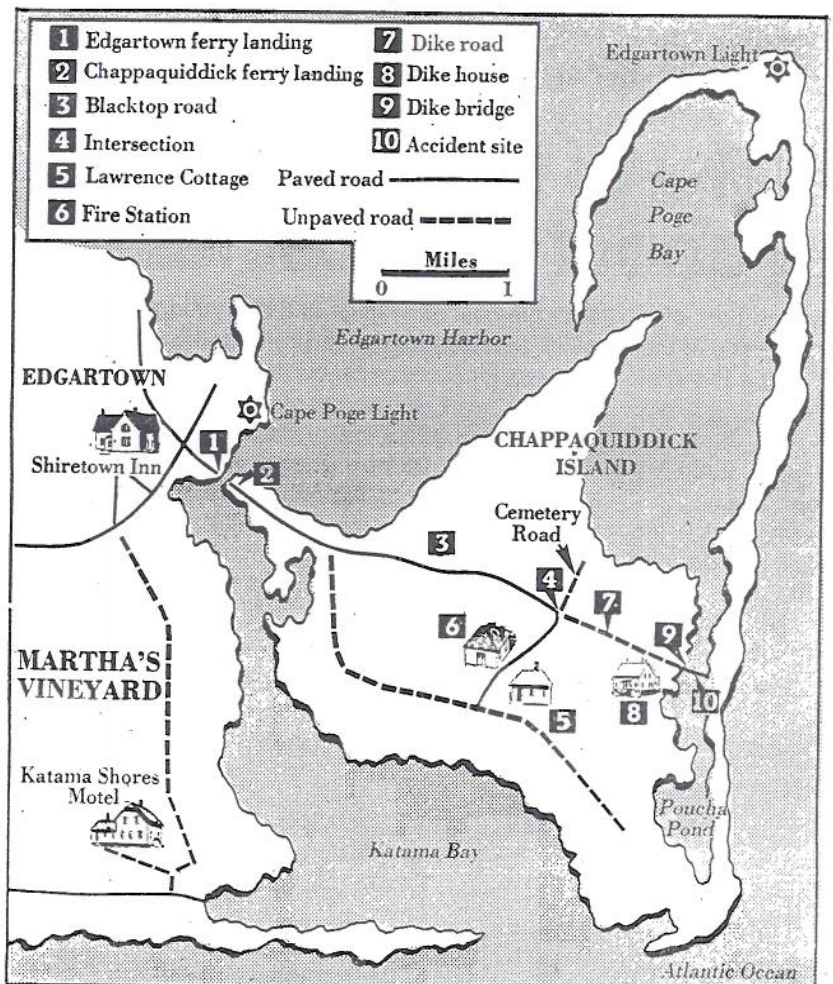
Kennedy's Escape

WHEN THE CAR went off the bridge, the window on the driver's side was open. Kennedy, of bigger-than-average physique, presumably was held more or less in place by the steering wheel as the car flipped over. His testimony indicates that he maintained some orientation inside the car.

Miss Kopechne, 5 feet, 2 inches tall and 100 pounds, may well have been tossed around inside the passenger compartment.

"I remembered the vehicle just beginning to go off the Dike Bridge," Kennedy testified at the inquest, "and the next thing I recall is the movement of Mary Jo next to me, the struggling, perhaps hitting or kicking me, and I, at this time, opened my eyes and realized I was upside down, that the water was crashing in on me, that it was pitch black.

"I can remember reaching down to try to get the doorknob of the car, and lifting the door handle and pressing against the door and it not moving. I can remember reaching what I thought was down, which was really up, to where I thought the window was and feeling along the side to see if the window was open and the window was closed, and I can remember the last sensation of being completely out of air and inhaling what must have been a half lung full of water and assuming that I was going to



drown . . ." (The senator was mistaken; the front window on the driver's side was open. A person of normal build usually can get his body through an opening if he can get his head and one arm through at the same time.)

Kennedy says the next thing he remembers was coming to the surface, gagging and gasping for air. And in every public statement he has made on the accident, beginning with his first account to police, Kennedy has insisted that he does not know how he got out of the car.

But Markham testified that Kennedy told him, before going to the police, that he had given "one final lunge" to escape from the vehicle. And that afternoon, Kennedy was examined by a physician at the family compound in Hyannisport.

The physician, Dr. Robert D. Watt of Cape Cod Medical Center, said in a sworn statement: "He (Kennedy) stated that he had been in an automobile accident last night on Martha's Vineyard. The car went off a bridge. There was a lapse in his memory between hitting the bridge and coming to under water and struggling to get out.

"There was a loss of orientation—at the last moment, he grabbed the side of an open window and pulled himself out."

Asked about Markham's testimony and the doctor's affidavit, Kennedy told the AP:

"I don't remember, you know, precisely what I mentioned to Mr. Markham or Dr. Watt, and I have no recollection of how I, you know, got out. Whatever they said I'm sure is probably accurate."

Kennedy testified that after escaping from the car he dived seven or eight times, trying to rescue his companion. But he said he was carried away from the car each time by a strong current. After 15 or 20 minutes, he gave up, exhausted.

Deputy Look's Encounter

THE STRONGEST evidence challenging Kennedy's account is the testimony of Christopher (Huck) Look Jr., who claimed he saw the senator's car at the Dike Road intersection nearly 1½ hours after the time Kennedy swore his car had plunged off the bridge.

If Look was right, Kennedy lied about the time of the accident.

If Look was right, Kennedy and Miss Kopechne were unaccounted for on Chappaquiddick for more than an hour after leaving the party and before the accident.

If Look was right, the protracted rescue attempts Kennedy described could not have been made when he said they were.

Look, a Martha's Vineyard oil dealer and part-time deputy sheriff at the time, has since been elected sheriff and enjoys an excellent reputation on the island.

"It just becomes, as I told everybody, a thing of credibility," Look said in an interview with the AP. "If you want to believe him [Kennedy], fine. If you want to believe me, I've got nothing to gain in any way, shape or form. What difference does it make to me if it was 20 minutes to 10 or 20 to 1 or 2? It doesn't make any difference."

Kennedy contends simply that Look was wrong. Gargan told the AP that Look must have "concocted that story," and a Kennedy aide wrote an admittedly one-sided study that accuses Look of making up his account after seeing Kennedy's car pulled out of the water the next morning.

The AP, in a systematic analysis of Look's account, applied the same scrutiny to his version as it did to Kennedy's and discovered that the deputy had altered his story at least three times, adding detail as time passed.

A careful reconstruction of Look's story from the time he first told it—to a police officer at the bridge—to his testimony at the inquest into Miss

Kopechne's death six months later showed he was wrong about some facts.

- Look swore that he was present at the bridge when the sunken vehicle's license plate was checked and it was determined that the car belonged to Kennedy. However, the AP's inquiry determined that he did not arrive until later in the morning, when the car's ownership was already common knowledge among those at the bridge.

When questioned by the AP, Look conceded he had been wrong about this. But he insisted that "nobody told me" it was Kennedy's car until after he had related his story about seeing the car the previous night to three other people at the bridge.

- Look asserted in a telephone interview with the AP that he told two of those people — Chief Arena and Special Officer Robert Bruguere — that the car's license plate began with an "L" followed by a "7" with another "7" at the end. (Kennedy's Oldsmobile bore the license L78-207, and a computer check by state officials showed no remotely similar car with an L and sevens in those positions.)

Arena says he doesn't recall Look talking to him until later that day or perhaps a day or two afterward.

Bruguere, who was never called to testify in any proceeding, told the AP he recalls only one conversation with Look at the bridge and doesn't remember the license plate being mentioned.

"When the car was coming out of the water," Bruguere said, "he came up to me and said quietly, 'That's the car I saw last night.'"

Two days after the Oldsmobile was pulled from Poucha Pond, Arena, Look and an inspector from the state Registry of Motor Vehicles returned to Chappaquiddick to make measurements and sketches in preparation for Kennedy's appearance in court on a charge of leaving the scene of an accident.

Attached to the sketches are Arena's typewritten notes quoting Look as saying he saw a "dark" car at the intersection with a man driving, someone seated next to him and possibly a third person in the back seat. The notes also quote Look as saying the car he saw had a Massachusetts plate with the letter L. There is no mention of any sevens.

The notes refer to the dark car as being in the center of the intersection with the driver perhaps "unsure or lost," but they make no mention of its subsequent movements.

Three months later, Look told his story for the first time under oath, at the Pennsylvania court hearing on an unsuccessful motion by Massachusetts authorities to have Miss Kopechne's body exhumed and an autopsy performed.

On that occasion, Look said that when he spotted the car at the intersection, he noticed that it had a Massachusetts plate beginning with an L and "I did make sort of a photostatic thing in my mind that it had sevens in it." He added that it was a "black" car and that "it was definitely" the same one he later saw pulled from Poucha Pond.

Under cross-examination, Look was asked again how he identified the car, and he said it was by the letter L and the Massachusetts plate.

It was another three months before Look was called again to testify at the long-delayed inquest in Edgartown. By that time, he had told and retold his story dozens of times to reporters, investigators and local islanders.

At the inquest, he said the car, he saw could have been "any dark color," not just black, as he had said in his earlier testimony. But his identification of the license plate was more certain:

Q: What did you notice, if anything, about the registration?

A: That it began with a L, and it had a seven at the beginning and one at the end.

The deputy's description of the car's movements also changed from that in Arena's notes and sketches.

Look testified at the inquest that he had been on duty as gate guard at the Edgartown Yacht Club until 12:25 a.m., when the club closed and a launch took him across the harbor to the Chappaquiddick ferry landing, where his car was parked.

Look said he got in his car and headed up the blacktop road toward his house, about a mile beyond the Kennedy party cottage.

At 12:45 a.m., as he approached the sweeping curve where Dike Road joins the blacktop, Look testified, a dark sedan entered the intersection from the other side of the curve, passed in front of him and drove straight ahead into a narrow private drive called Cemetery Road, where it came to a halt.

Look said he rounded the curve, stopped and climbed out of his car, thinking the people in the other car — now directly behind him — were confused and might need help. The deputy said he saw two people in the front seat and something in the rear seat, possibly a third person or an object that cast a shadow.

As he approached on foot, Look testified, the dark sedan suddenly backed up, turned and sped off down

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Dike Road, kicking up a cloud of dust.

It is Look's inquest testimony, with its elaborate and damaging details, that has been used time and again to challenge the contradictory account told by Kennedy during the same proceeding. The earlier, less specific accounts have not been mentioned.

Passing in the Night

ASSUMING THAT Look was wrong about seeing Kennedy's car and that Kennedy's timetable was accurate, another conflict occurs between the senator's testimony and that of two other partygoers.

Kennedy said that, after his attempt to rescue Miss Kopechne and a brief rest, he returned to the cottage, "walking, trotting, jogging, tumbling" up the road for 1.2 miles.

If the car went into the water between 11:20 and 11:35, as the testimony says, Kennedy could not have arrived back at the cottage before 12:15 a.m.

But two of the partygoers, Charles Tretter and Rosemary (Cricket) Keough, testified they were on the road, walking toward the intersection during that entire time. Therefore, they should have encountered Kennedy, dripping wet, coming from the opposite direction on that 20-foot-wide strip of blacktop.

Neither Kennedy nor the two partygoers mentioned seeing anyone on foot, although Tretter said he and his companion had to jump off the road several times for cars during the 30- to 40-minute walk. Kennedy told the AP he passed no one and conceded it was "unlikely" he could have missed anyone on such a narrow road.

When approached for an interview, Tretter, a former Kennedy aide, ordered a newsman off his front porch, refusing even to accept a list of written questions about his testimony.

Miss Keough, now Rosemary K. Redmond, a partner in a Boston law firm, said in a letter she did not have time to review her testimony in order to answer the questions given

her by the AP and preferred "to rest on my testimony as it stands in the record."

The Second Rescue Try

THE UNCONTRADICTED testimony of Kennedy and several other partygoers is that the senator arrived outside the cottage about midnight and summoned Gargan and Markham, and that the three drove off in Gargan's rented white Valiant.

Kennedy, Gargan and Markham say they went directly back to the bridge, where the senator's two friends jumped from the car, stripped and dived into the water in a second vain rescue effort that lasted about 45 minutes. Kennedy, according to testimony, did not go into the water.

Several excerpts from the testimony and related evidence raise the question of whether Kennedy actually returned to the bridge with his friends or fled the island before that, leaving any further rescue efforts to Gargan and Markham.

In Kennedy's first statement, dictated to Markham and given to the police the morning after the accident, the senator said he asked someone at the cottage to "bring me back to Edgartown." That statement, which remained the only public account for a week after it was written, did not mention Gargan and Markham, a return to the bridge or how Kennedy got back to his hotel.

Those details were mentioned publicly for the first time in Kennedy's national television address the following weekend. But Kennedy offered no explanation at that time for the belated disclosure, which helped encourage suspicion that something was being covered up.

At the inquest, Markham testified that before going to the police, Kennedy had told him and Gargan: "Look, I don't want you people put in the middle of this thing. I'm not going to involve you. As far as you know, you didn't know anything about the accident that night."

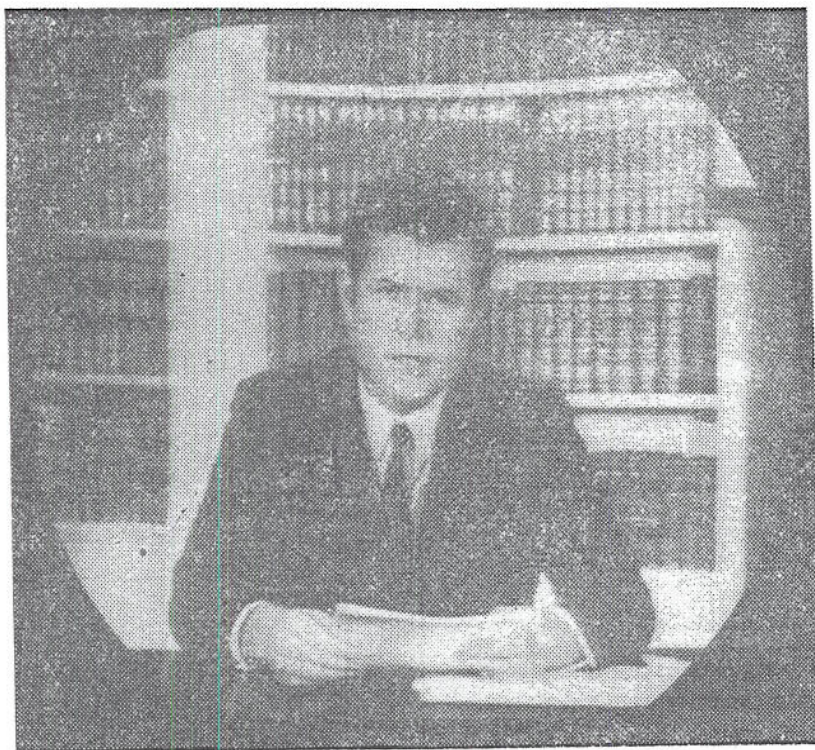
Thus, according to the inquest record, Kennedy, a lawyer, was in effect telling Markham and Gargan, both lawyers, that he was not going

to tell police the entire truth, and they not only permitted him to do this but cooperated with him.

Kennedy has said since that the omission was strictly his idea and that he has no recollection of discussing it with either of his two friends. Gargan says the senator didn't mention it to him, yet Markham testified he was sure Gargan was present.

But since Markham had been with the senator and later helped prepare the statement to police, at least he knew that Kennedy was leaving out some important parts of the story.

Charles Tretter's testimony also deals with Kennedy's actions after returning to the cottage, again without mentioning a second rescue attempt.



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Eight days after the accident, Edward Kennedy went on television to give his account of what happened.

The next morning, after the partygoers had returned to Edgartown, Gargan went to the motel where the five surviving women were registered and revealed to them that there had been an accident and that Miss Kopechne was dead.

Tretter testified that he was present when the women asked Gargan for details of the tragedy:

"He explained, as I recall, that the senator had called he [Gargan] and Mr. Markham out of the cottage, had told them what had happened and asked to be driven to the Edgartown ferry, and Mr. Gargan said the senator was distraught, that neither one of them talked to him. He just kept saying, 'Get me to Edgartown. Get me to Edgartown.'

"So, Mr. Gargan was saying that

they drove to Edgartown, the Senator dove off the slip and swam across . . ."

The "get-me-to-Edgartown" quote that Tretter remembered was similar to the language in Kennedy's statement to police, which Gargan could not have seen before he talked to Tretter and the women. And like the statement to police, it said nothing of a return to the bridge.

Asked about Tretter's testimony, Gargan told the AP, "I never said that to Charlie Tretter. His recollection of the entire conversation is incorrect. He was not present during the entire time."

Gargan said Tretter was in and out of the room, and he told the women only that the accident had happened, that Miss Kopechne had been lost and that the senator was at the police station.

Kennedy's testimony about the time he and his friends returned to the bridge also is inconsistent with the evidence.

At the inquest, Kennedy testified that they arrived back at the bridge at 12:20 a.m. The senator said he thought he determined the time by looking at the Valiant's dashboard clock.

The Boston Globe has reported that the Valiant had no clock. The AP confirmed this through the Hertz office manager in Edgartown, who rented the car to Gargan, and the present owner of the car, Ruth B. Elvin of Vineyard Haven, Mass.

Kennedy, in an interview with the Globe, said he might have looked at a watch to determine the time at the bridge. But by his own testimony, Kennedy wasn't wearing a watch, and Gargan told the AP he wasn't wearing one either. Markham, according to the testimony, didn't know the time. He leaped out of the car first, stripped to his shorts and dived into the pond with his watch still on his wrist.

Kennedy, according to the testimony, was slumped in the back seat while the other two men were in the front seat.

The three men testified that Gargan and Markham spent about 45 minutes trying to get into the submerged car, abandoned the effort and drove to the ferry landing.

At the Ferry Slip

KENNEDY, GARGAN and Markham testified that, as they drove from the bridge to the ferry slip, the conversation centered on the need to report the accident immediately. There also was a suggestion that the senator get in touch with a Kennedy family lawyer.

Kennedy testified that he intended to call police "within a few short moments" after leaving the bridge, and the testimony of all three men indicates that reporting the accident was the only subject discussed.

Moreover, Gargan said that after they reached the landing the same discussion "went around and around" for another 10 minutes.

A pay telephone was located a few feet from where they parked at the ferry landing, and Gargan knew it was there. But it was never used to make the call that all three men agreed was so urgent.

Kennedy and Markham testified they didn't know it was there. Gargan told the AP the answer was "in the testimony." But he had never been asked that question at the inquest. Pressed further, he said the subject of using the phone "never came up." Kennedy ended the conversation, he said, by diving into the harbor.

Both Gargan and Markham testified that Kennedy, before leaving, told them to return to the party and avoid alarming anyone.

As for notifying the authorities, they said, Kennedy told them: "I will take care of that."

It would be another eight hours, in fact, before Kennedy's first contact with authorities. By that time, the car had been found, its owner's identity was known, and recovery efforts were under way.

Into The Darkness

THE THREE MEN said they arrived at the Chappaquiddick ferry landing about 1:15 a.m.

It probably was later than that because Jared Grant, owner of the ferry On Time, testified that he didn't leave the Edgartown ferry slip until 1:20 a.m. Had they arrived before then, he would have seen their car and gone across to pick them up. Grant explained that the usual procedure for motorists is to signal the ferry simply by leaving their lights on as they arrive at the landing "and we come and get them."

In an attempt to resolve the question of whether Kennedy went directly from the cottage back to Edgartown or went directly to the bridge with Markham and Gargan, the AP compared the senator's testimony with tidal current data on Edgartown Harbor.

Here is Kennedy's testimony regarding that swim:

"Now, I started to swim out into that tide, and the tide suddenly became, felt an extraordinary shove and almost pulling me down again, the water pulling me down, and suddenly I realized at that time, even as I failed to realize before I dove into the water, that I was in a weakened condition, although, as I looked over that distance, it seemed to me an inconsequential swim.

"But the water got colder; the tide began to draw me out, and for the second time that evening I knew I was going to drown and the strength continued to leave me.

"By this time I was probably 50 yards off the shore and I remembered being swept down toward the direction of the Edgartown Light and well out into the darkness . . ."

The National Ocean Survey, a federal agency, reported that under normal conditions—and the conditions were substantially normal—the current in the area where Kennedy swam was slack, or at a standstill, at 1:36 a.m., minutes after the senator dived in.

In the 15 minutes prior to that, the data show, the current was running in the direction Kennedy described at one-tenth to two-tenths of a knot—a very weak current. After 1:36, it turned in the opposite direction.

So even if Kennedy was swimming at dog-paddle speed—and he reportedly is an exceptionally strong swimmer—he should have reached the shore 85 to 170 feet below the Edgartown ferry slip. That distance would not fit the senator's description of being swept "well out into the darkness" toward the lighthouse 2,000 feet from the slip. And he should have come ashore among the myriad boats tied up at the Edgartown docks, not the beach he recalled in his testimony.

Had Kennedy swum the harbor earlier, about 40 minutes after the accident, he would have encountered a current three to seven times as strong as that running at 1:20 a.m. At that rate, the current would have carried him as far as 600 feet downstream toward the lighthouse. That current would have swept him downstream farther than the distance he had to swim, perhaps giving him the impression he was losing headway.

But while this would support *his* account of the conditions under which he swam the harbor, these circumstances would not allow time for him to go first to the bridge with Gargan and Markham as all three men claimed he did.

Kennedy was informed through an aide of the findings regarding the currents. A few days later, Kennedy retained Lawrence Hoch, an admiralty lawyer in Boston, to calculate the currents during the time in question. Hoch's findings, provided to the AP, paralleled the AP's own.

The AP invited the senator to discuss or comment on the currents study. Kennedy did not respond.

The AP found one account, other than the testimony of the three men involved, that reported Kennedy's second rescue story: two brief sentences in an affidavit signed by Dr. Watt, the physician who examined Kennedy the afternoon after the accident.

"He [Kennedy] went for help and returned," the doctor stated. "Again, effort to rescue passenger was without success."

Dr. Watt told the AP the affidavit was based entirely on notes he took of what the senator told him that afternoon — only hours after Kennedy had given police a different account.

Kennedy was seen outside his Edgartown hotel room at 2:25 a.m. He returned immediately to his room and was not seen again until after 7 a.m. when he chatted with some friends about sailing and the weather, giving no hint that anything was wrong.

Gargan and Markham spent the night on Chappaquiddick, arrived in Edgartown about 8 a.m. and met privately in Kennedy's room. Then the three men went back across the harbor by ferry to the telephone booth. It was not until after 9:30 a.m. that Kennedy finally went to the police.

Was Rescue Possible?

KENNEDY AND his two friends say they abandoned their rescue effort, convinced that Miss Kopechne was dead. But the emotion-charged issue of how long she might have survived in the submerged car has been encouraged by John N. Far-



Mary Jo Kopechne at age 21.

rar, the fire department scuba diver who eventually recovered the body.

Farrar claims she might have lived for several hours breathing air trapped in the car and that she did not drown, as the medical examiner ruled, but suffocated.

At the inquest, Farrar described his dive down to the sunken car:

"On entering the open right window and, looking up I found the victim's head cocked back, face pressed into the footwell, hand holding onto the front edge of the back seat. By holding herself in a position such as she could avail herself of the last remaining air in the car."

Arthur D. Little Inc., a New England consulting firm hired by Kennedy to do a "physical factors" study of the accident, concluded that breathable air drained quickly from the car and that Miss Kopechne could not have remained conscious more than 4 minutes nor lived more than 14.

The firm's tests with a car similar to Kennedy's could not be readily duplicated, but expert opinion sought by the AP tended to agree with the Little findings rather than with Farrar.

Experts say a car that sinks upside down loses air swiftly through floor drain holes, and an Indiana University research project found that a car sinking upside down with at least one window open "does not retain an air pocket sufficient in size to enable an individual to remain in the vehicle, breathe the trapped air and survive."

Little said about one-eighth of a cubic foot of air would have been trapped in the footwell between drain holes. The AP's calculations, based on criteria established by the Indiana study, indicated this amount would be used up in less than a minute.

Dr. Donald R. Mills, an associate coroner, said a large amount of water came out of Miss Kopechne's nose and mouth when he pressed on her chest. But Farrar says he watched Mills' examination and relatively little water came out, leading to his view that she suffocated.

One doctor, an expert on submersion, noted that in about one of five drownings, the cause of death is "dry drowning"—an involuntary closing of the larynx when water is first inhaled—and the victim's body contains very little water. The doctor asked that his name not be used in connection with the Chappaquiddick case.

(Mills said the body had no visible cuts or bruises and described her clothing; dark slacks, white blouse, blue bra, sandals. A gold chain link belt fell from the body as Farrar lifted it out. She was not wearing underpants.)

Thus, it appears that Miss Kopechne could not have lived long enough to be saved after Kennedy's initial attempt. But Kennedy, Gargan and Markham had no way of knowing that.

The Financial Settlement

THERE IS NO evidence that Kennedy paid anyone for silence, but the AP learned that he did pay about \$91,000 out of his own pocket to the parents of Miss Kopechne as part of a financial settlement following her death.

Joseph Flanagan, the Kopechnes' attorney, said the senator's insurance company refused to pay more than \$50,000 damages, the maximum allowable under Massachusetts law for an auto accident death in which pain and suffering is not proved, and the Kopechnes informed Kennedy they planned to sue him.

The lawyer said the senator agreed instead to a final settlement of \$140,923, of which the insurance company paid \$50,000. Kennedy paid the rest to the insurance firm, which passed it on to the Kopechnes. The amount was based on an insurance actuary's calculation of Miss Kopechne's earnings potential had she lived.

Flanagan said that after his fee for representing the Kopechnes at the 1969 exhumation hearing and the insurance settlement, the family netted about \$100,000. This figure included the proceeds from a first-person story by Mrs. Kopechne in McCall's magazine, which Flanagan also negotiated.