

From The Report and Recommendations of the STATE OF NEW JERSEY COMMISSION OF INVESTIGATION
on the INVESTIGATION of SUDDEN DEATH CASES

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THE SUDDEN DEATH OF LYNN FULLER (1973)

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At some time prior to 5:37 A.M. on Friday, March 30, 1973, Lynn Fuller, the wife of Stratford Borough Police Sergeant James Fuller, suffered a fatal gunshot wound in their Hi-Nella Borough apartment. The area's District 6 Police and Ambulance Dispatcher received a telephoned request for assistance and oxygen from Sergeant Fuller, a call that was logged at 5:37 A.M. Three police officers quickly responded, in separate cars, as well as the Stratford Ambulance Corps with a crew of three men.

The first of the responding officers to arrive at apartment E-3 of the low-rise Hi-Nella Apartments was Police Sergeant Kirk Fleming of Stratford, who was Fuller's best friend. Fleming found the apartment door open. His first observation was of Fuller on the floor cradling the head of his unconscious wife. It appeared to Fleming that Mrs. Fuller had bled profusely from the mouth and head and that she was already dead.

The other responding officers were Lieutenant Harold Miller of Somerdale (another borough that, like Hi-Nella, adjoins Stratford) and, only seconds later, Stratford Patrolman Anthony Giannndrea. Miller and Fleming had been talking to each other while out on patrol when Fuller's call for assistance was relayed over the police radio. Although he followed Fleming to the Fuller apartment, Miller only watched briefly at the doorway. Giannndrea, who was on Miller's heels, went back to his police car to summon an ambulance before returning and entering the apartment. Of the first officers to arrive, Fleming assumed the most active role.

Fleming stated that when he arrived at the scene Fuller yelled to him to get oxygen. Fuller was exhorting his wife to pull through. Fleming ran to the apartment's telephone, which was off the hook and stained with blood, and called District 6 for an ambulance and asked that the hospital emergency room be notified that a gunshot victim was to be brought in. Fleming then returned to where Fuller was kneeling at the side of his wife, saw a gun lying near Mrs. Fuller's right side and, as with the telephone, picked it up without regard for the preservation of such evidence as fingerprints or blood stains.

Patrolman Giannndrea recalled that when he returned and entered the apartment, Fleming handed him the revolver which Fleming had taken from the floor and placed on a towel. After storing the gun under a seat in a police car, Giannndrea returned again to the apartment. He recalled that Mrs. Fuller was lying on the floor about five or six feet inside the doorway, Fuller was kneeling by her right side, and Fleming was standing directly behind Fuller.

When the ambulance crew arrived, they put compresses on the head of Mrs. Fuller and placed her on a stretcher. Fleming led Fuller away from the body to enable the ambulance crew to use the stretcher. As Mrs. Fuller was carried into the ambulance, Fleming escorted Fuller to his police car and drove him to the nearby John F. Kennedy Hospital.

The ambulance left for that hospital preceded by Giannndrea, at which point Lieutenant Miller also left the scene to return to Somerdale. No one remained to guard the apartment.

Mrs. Fuller was pronounced dead on arrival at Kennedy Hospital at 5:52 A.M. by Dr. Richard Rissmiller, only 15 minutes after the initial call for help had been received by the District 6 Police and Ambulance Dispatcher. Medical testimony later established that, due to a massive injury to the brain which the bullet had penetrated from the roof of the mouth, death had probably been almost instantaneous.

The pronouncement of death on arrival at the hospital did not surprise those who were first at the Fuller apartment. Fleming recalled that he thought Mrs. Fuller was dead when he saw her lying on the floor. The three ambulance attendants also thought she was dead since they detected no vital signs of life. Despite these immediate impressions, however, no effort was made to diagram for investigative purposes the position of the body on the floor before removal.

Later recollections by those who first arrived at the apartment as to what was said, and by whom, were vague and contradictory.

Fleming said that when he arrived at the scene he either assumed what happened or did not have to ask what happened based on spontaneous remarks made by Fuller. Other officers who were there, however, could not recall Fuller saying what had happened. In fact, these other officers later testified before the S.C.I. that there was no conversation at all about what had occurred. The ambulance attendants recalled that upon their arrival "somebody" said Mrs. Fuller had been shot or had shot herself, but none could identify the speaker.

The hazy, conflicting recollections of what was said and done during the period immediately after Fuller's call to the dispatcher at 5:37 A.M. contrasted with more detailed evidence of Sergeant and Mrs. Fuller's movements up to 5 A.M.

The evidence established that at about 9 P.M. Thursday, March 29, 1973, the Fuller couple went to the nearby apartment of a mutual friend, Marcia Stoeffel, for drinks. This was confirmed by Fleming, who was on patrol duty throughout the night and who brought cigarettes to her apartment while the Fullers were there. At about 1 A.M., Friday, the Fullers drove from the Stoeffel residence to the White Lantern Tavern, where Fleming again spoke to Fuller at the doorway, at 3 A.M., when the tavern had closed. Having ordered additional drinks just prior to closing time, the Fullers remained at the tavern for about two more hours. This was known to Fleming, since he observed that the Fuller car was still parked at the White Lantern at 4:45 A.M. but was gone at 5 A.M. The Fuller apartment was only a few minutes' drive from the White Lantern Tavern. The official investigation never established what transpired between 5 A.M. and 5:37 A.M.

It developed later during a canvass of Fuller's neighbors, by Prosecutor's detectives and local police, that two women reported they overheard Fuller remark to someone outside the apartment that he had had an argument with his wife. Their attention had been drawn to the area in front of the Fuller apartment by the presence of police cars and the ambulance. The statements of these two neighbors were never followed up by either local or county investigators.

As Mrs. Fuller was being transported to the hospital, the apartment was left empty, unlocked and unguarded until approximately 5:55 A.M. At that time Patrolman Ronald Raynore of Hi-Nella arrived at apartment E-3. He found the exterior front door closed but not locked and the inner door to the apartment wide open. He looked into the apartment briefly and noted that it looked "like a fight took place." He specifically recalled that a "lot of money" had been scattered around. As he then locked -63- the door and left, Hi-Nella Police Chief Glen Potts arrived. Without going inside, Potts proceeded with Raynore to the hospital, where they were told that Mrs. Fuller had died of a gunshot wound.

The Hi-Nella police, who served part-time, operated under an understanding that Stratford police would "cover" their borough when there were no scheduled Hi-Nella patrols. Chief Potts had been awakened at home by a telephone call from District 6 at 5:46 A.M. about the incident and he had requested the District dispatcher to telephone Raynore.

At the hospital, Chief Potts and Stratford Police Chief Francis Washart discussed the situation and agreed that the Camden County Prosecutor's Office should be called. The Hi-Nella police officers then returned to their headquarters. At 6:25 A.M. Potts dispatched Raynore to guard the apartment. At 6:40 A.M. Potts contacted the office of Camden County Prosecutor Thomas J. Shusted to report the death of Mrs. Fuller. Prosecutor's Detective Luis Rodriguez called Potts back to instruct him to make sure that the hands of the dead women were covered to preserve them for a Neutron Activation Analysis (NAA) test. That test, which was performed later in the day by Prosecutor's Investigator Thomas Steubing, yielded inconclusive results. No protective effort had been made on Fuller's hands. The NAA test, by analysis of trace elements found in gun powder primer, might have indicated whether either Fuller or his wife had recently fired a gun.

Upon his return to the apartment, Raynore found the outside door to the apartment vestibule ajar and the door to the apartment that he had locked earlier again wide open. The bills of various dollar denominations that he had seen scattered on the living room floor shortly after 5:55 A.M., were now -- a half hour later -- stacked in a neat pile on the dining table in the main room of the apartment. In addition, what appeared to be a gun rack (later identified by Fuller as a knick-knack shelf) that had been on the floor next to a chair was now on the chair. Wondering who had partly straightened up the place, Raynore also observed a pool of blood on the floor and blood on the baseboard and the wall. In addition, there was an open pocketbook on the floor near a couch. The patrolman examined the contents of the pocketbook, recorded the amounts of a check and money it contained, and put it back on the floor. He noted a towel in the living room and, on the floor, a comb, a newspaper and a container of fish food that had spilled near an aquarium. He observed blood stains on the telephone hand piece. In the bathroom the tub appeared as if someone had just used it since the inside was wet. He found the bedroom in darkness although the lights were on in the rest of the apartment. The bed was made and the bedroom itself was tidy, in contrast with the rest of the premises. Raynore thus busied himself at the scene until he was relieved by Patrolman Dominick Palese of Hi-Nella. Palese waited at the place until the arrival of county detectives at about 7:30 A.M.

Earlier at the hospital, after his wife was pronounced dead, Fuller was described in later testimony by Chief Washart as being "very distraught" and by Patrolman Giannrea as "hysterical." Fuller was given at least one injection of a sedative and Fleming was advised by a nurse that the sedative would make Fuller sleep. He also was permitted to wash up. Although it was evident to one of the officers who had initially responded to the apartment -- Fleming -- that Fuller had been drinking, his blood-alcohol level was not tested.

Arrangements were then made by Fleming, and approved by Stratford Chief Washart, to allow Fleming to take Fuller to the Stoeffel apartment. While a comfortable place was deemed necessary to permit Fuller to sleep, a more appropriate accommodation for rest and observation was immediately available at the hospital. At this time, about 6:00 A.M., Chief Washart telephoned Robert Fuller of Haddonfield in Camden County, a New Jersey State Trooper who was the brother of James Fuller, and told him what had taken place.

After receiving notice of the sudden death from Chief Potts in Hi-Nella, the county prosecutor's office dispatched Detective Rodriguez and Investigator Steubing to the Fuller apartment to photograph the

scene and to -66- sketch the apartment and its contents. His initial viewing of the interior of the apartment, according to Steubing's subsequent testimony, gave him the impression that there might have been "an argument or a tussle" in the living room.

When Investigator Steubing returned later that same afternoon, he was "disturbed" to find that some items had been moved from their original place in the apartment by other police officers who had been there previously. Steubing was again annoyed to learn later that day that Fuller had refused to permit a Neutron Activation Analysis test on his hands, as requested by the Prosecutor's office. At that point, Fuller's brother, who was with Sergeant Fuller at the Stratford Police Station, informed the Prosecutor's investigator that on the advice of an attorney Sergeant Fuller would not take the test. Although Fuller had no legal right to refuse the test, his position was not challenged by the Prosecutor's staff or anyone else and he was allowed to leave the police station to see the lawyer. In fact, Sergeant Fuller was never detained nor were his movements ever restricted even though he was the only witness to his wife's death. In addition, no effort was ever made by any of the investigative authorities to preserve his clothing as potential evidence nor did the local police ever ask him at anytime for his version of what had occurred.

One early opportunity for obtaining Fuller's version of what happened was either missed or unrecorded. That opportunity arose after Fleming, with his Chief's permission, drove Fuller from Kennedy Hospital to the Stoeffel apartment after Mrs. Fuller was pronounced dead. Details of Fuller's stay there were fragmented.

Mrs. Stoeffel later said she was "shocked" when she noticed Fuller's shirt was splattered with blood, not in blotches but in specks that also appeared on his chest and an arm. Trooper Fuller and the Fuller brothers' parents also came to the Stoeffel apartment to see Fuller, at about 7:30 A.M., and persuaded him to take a shower and to rest. However, Fleming was worried about Fuller's condition, knowing he had been drinking early that morning, that he had been sedated at the hospital, and because he now feared that Fuller had taken pills at Mrs. Stoeffel's. Fleming said this fear was prompted by the noise of pills rattling in a bottle of barbiturate pills while Fuller was in the Stoeffel bathroom. Fuller denied taking the pills when Fleming questioned him. Fleming subsequently drove Fuller back to Kennedy Hospital, from which the sergeant again was released, at 9:20 A.M.

During the Fuller family's visit to the Stoeffel residence, Trooper Fuller, according to Fleming, left to drive to the Fuller apartment. There he spoke to one or two officers briefly and returned to Mrs. Stoeffel's home.

After Sergeant Fuller's second release from Kennedy Hospital, he was taken to Stratford Police Headquarters by Fleming and his brother. Another chance to obtain Fuller's story apparently was missed by Fleming when he drove Fuller from the hospital to the Stratford police station. In fact, Sergeant Fuller was never officially asked during the entire day of March 30, 1973, about what had transpired at the Fuller apartment just prior to 5:37 A.M. Both Trooper Fuller and Sergeant Fleming assumed personal rather than professional roles with regard to Fuller, as they subsequently testified before the S.C.I. For example, after Fleming brought Fuller from the hospital to the Stratford police station, Trooper Fuller requested Chief Washart to contact a lawyer for his brother. The Chief did so, using a headquarters telephone. Since no formal questioning of Sergeant Fuller was contemplated, Washart permitted Fleming and Trooper Fuller to accompany the sergeant to the lawyer's office.

Sergeant Fuller met with lawyer Thomas Higgins of Blackwood. The attorney advised him not to submit to a Neutron Activation Analysis test because of the lawyer's unfamiliarity with the test. Fuller also was

advised not to give a statement that day, Friday but to wait until the following Monday. Fuller then was driven to the office of Dr. Marvin Herring in Stratford. There, according to Fuller, the doctor noticed, in addition to Fuller's distraught condition, a fresh nick at the hairline of his forehead. From the doctor's office Fuller was driven back to Stratford Police Headquarters and then to his parents' home in Lindenwold. When he arrived at his parents' house, he told them to "get rid of" his bloodied clothing. They apparently complied. In any event those clothes were never examined by the investigators.

Meanwhile, sometime after Hi-Nella Chief Potts had officially notified the Prosecutor's Office at 6:40 A.M. of the sudden death of Mrs. Fuller, Investigator Steubing was dispatched to the Fuller apartment. He was instructed to photograph the scene and to check up on the requested Neutron Activation Analysis test of Fuller's hands. Steubing left after taking photographs but returned that afternoon to diagram the physical evidence he had observed scattered about the living room. However, he was "disturbed" upon his return to find that the apartment had been cleaned up, preventing him from fully diagramming the original disarray he had observed on his earlier visit. He also noted that the position of Mrs. Fuller's body near the doorway had not been outlined.

After responding with Steubing to the Fuller apartment, County Detective Rodriguez contacted his superior, Detective Sergeant Jerome Banks, who then went to the scene. Banks later recalled he was "angered" when he learned not only that the physical evidence in the area of the sudden death had been moved but also that the apartment had been left unlocked and unguarded for some time. While the disorder in the apartment's living room suggested merely sloppy housekeeping to him, Banks nonetheless said he was "disturbed" enough by the effort to set the place straight to complain to his superior, Prosecutor's Lieutenant William Reeves. He emphasized in this complaint his irritation over what he felt was a lack of cooperation by Stratford police. Banks, the senior Prosecutor's detective in the case, subsequently testified that he never believed that Mrs. Fuller was a suicide. He said his assertions to his superiors in the Prosecutor's detective section -- that Mrs. Fuller did not fit the profile of a person likely to commit suicide -- went unheeded.

The Camden Prosecutor's office, having begun an investigation on the day of the incident, failed to follow through on certain key aspects of the case, including statements by the two neighbors who said they had overheard Fuller remark outside the apartment that he had an argument with his wife. In addition, in a statement given to the Prosecutor's detectives on April 10, 1973, Sergeant Fleming had made the unsolicited assertion that there was no argument but he was never called upon to explain the discrepancy. Years later in testimony before the S.C.I., Fleming admitted that Fuller told him the day after the incident that there had been an argument. Fuller, on the other hand, consistently denied that there had been an argument although he admitted for the first time at the S.C.I. that he had engaged in a discussion with his wife about some purchases after their return from the White Lantern bar. He said that his wife was upset and that he may have raised his voice during this discussion. These contradictions concerning an argument were not assessed during the investigation nor were they presented a year later to the County Grand Jury.

The investigation also failed to evaluate the potential revelations at the scene of the sudden death. Although the Prosecutor's photographs showed that numerous items were out of order in Fuller's apartment, and several officers had thought privately that there may have been some sort of a struggle, this point was never clarified in the case reports. There was no direction from the higher ranking Prosecutor's detectives to obtain answers to critical questions.

During the brief period in which the Prosecutor's Office initially investigated the case, a friend of Sergeant Fuller reported that several months prior to her death Mrs. Fuller had fired her husband's gun in an

attempt to kill herself. This woman later stated to the S.C.I. that she thought Mrs. Fuller had attempted to kill herself or to scare Fuller. Such statements contrasted sharply with later testimony and interviews of others who knew Mrs. Fuller's personal characteristics, including Sergeant Fuller -- none of whom could imagine that she would kill herself.

The Prosecutor's file on the case became inactive within about two weeks, based on a conclusion, bolstered by the autopsy report, that the death was a suicide.

A post-mortem examination of Mrs. Fuller's body was conducted at 10:30 A.M. Friday by Dr. Richard Schiffman, an Assistant Camden County Medical Examiner. His report listed the cause of death as a self-inflicted gunshot. Since this appeared to him to be so obvious a suicide, he made his conclusion without conducting a full autopsy of the head. The entrance wound caused by the .38 caliber bullet at the roof of the mouth was not closely inspected, Dr. Schiffman said, and he concluded that the weapon was actually inside the mouth when the shot was fired. Evidence, if any, of powder burns, tattooing or charring, which might have indicated the distance of the gun from the victim, was not mentioned. Details of physical surroundings of the death scene were not made known to Dr. Schiffman. There was no inspection of the death scene by him. No analysis was made of a recent scratch on the victim's chest or of a recent gash on the pad of the victim's thumb. Although the presence of the scratch and the gash was noted in the post-mortem report, the doctor, when subsequently questioned about these wounds, could not recall them. No photographs of such cuts were taken -- a step regarded as essential by many pathologists and which could have helped to refresh the recollections of the doctor as to the possible significance of the wounds. No effort was made by medical analysis to date the onset of these wounds.

In July, 1973, the investigation of Mrs. Fuller's death was reactivated by the Special Investigation Unit of the County Prosecutor's Office. This second investigation continued for about four months, until the file was reassigned or closed. At about this time the unit was disbanded.

When subsequent Grand Jury proceedings took place, the investigator from the Special Investigation Unit was not called to testify. The original Prosecutor's detective in charge, Banks, had been removed from the inquiry soon after its inception and was never consulted thereafter concerning it. Steubing also did not testify.

In June, 1974, during the county Grand Jury review of the death, the Prosecutor's office failed to submit relevant evidence. For example, the inquest heard testimony from certain police officers who had never been formally interviewed by the Prosecutor's staff but several of the Prosecutor's detectives who were at the scene and had the most direct initial involvement in the investigation were not called to testify. One of those who was a part of the Prosecutor's initial inquiry, Luis Rodriguez, was questioned before the Grand Jury only peripherally concerning the sudden death. He (Rodriguez) was questioned only as to certain events which occurred during the course of the investigation but not about the results of the investigation or concerning any of his conclusions.

Sergeant Fuller's version of what took place between the time he left the White Lantern Tavern and his telephone plea for assistance at 5:37 A.M. Friday, March 30, 1973, was never explored by the Grand Jury. The fact that he was called before the Grand Jury by Assistant Prosecutor George Stillwell, coupled with the absence of constitutional warnings prior to his testimony, indicated he was not considered a suspect.

As to what happened during those 37 minutes, Fuller years later testified before the S.C.I. that when he and Mrs. Fuller arrived home he went to the bedroom to get ready for bed by emptying his pockets. Before entering the bedroom, Fuller stated that he put his personal, off-duty revolver on a table in the

living room (where the fatal shot was fired) but left the holster on his belt. Mrs. Fuller, he testified, said he didn't love her and that she had his gun. Fuller said he responded "'knock yourself out' or something to that effect" and that seconds later he heard a shot. When he went back into the living room, Mrs. Fuller was on the floor. He immediately called the Police and Ambulance Dispatcher. Fuller also said that he and Mrs. Fuller were in the apartment 20 to 30 minutes before that incident. But, at the time she was mortally injured, Mrs. Fuller was wearing a topcoat over her street clothes. Bloody keys and a purse were on the floor, the door was ajar, and the apartment was in disarray when the police arrived.

Such details as these were never explored or questioned at the Grand Jury proceedings.

Fuller also told the S.C.I. that he always kept his off-duty gun fully loaded. When the gun was examined after the shooting, however, it was found to contain an empty chamber in addition to the one from which the fatal bullet was discharged. He could not explain -- nor was he ever asked by any investigators -- how this could have occurred. In addition, a bloodstained, live bullet was found at the scene underneath the baseboard heater. The baseboard, as previously noted, was smeared with blood. This area where the bullet was found was some distance from where the body of Mrs. Fuller was found. These additional facts were never presented to the 1974 Grand Jury inquiry into the sudden death.

In fact, Fuller's direct testimony before the Grand Jury consisted of only 2 1/2 pages of transcript.

In summary, up to this point, at no time after Mrs. Fuller's death during the initial investigation, its renewal in July, 1973, or the Grand Jury proceedings in mid-1974 was there any recorded evidence that either the local or county law enforcement agency ever took full control of the death scene or directed an orderly, professional course of inquiry.

Stratford Police Sergeant Fleming conceded his own conduct at the scene was not standard police practice for a sudden death investigation, since he had moved the gun and had not marked the position of the body. Nonetheless, he testified before the S.C.I. that he would act the same way again, except for transporting Fuller from Kennedy Hospital to Mrs. Stoeffel's apartment. As he explained later, Fleming "did not have one thought of destroying evidence...on a crime scene because I didn't think anything was wrong." This was so, he said, because he "personally thought she shot herself." He further stated that "I really don't think that piece of evidence. that everybody thinks I destroyed on purpose was valuable to that investigation."

Fleming, upon assuming command of the initial inquiry, had made no effort to preserve immediately the physical evidence at the death scene. He later explained that he moved the weapon lying near the head of dying Mrs. Fuller to prevent Fuller from possibly using the gun on himself, even though two other police officers were immediately available to escort Fuller from the scene. After the body was moved to the hospital, all of the police then left the apartment unsecured and unattended, despite the fact that the Hi-Nella police had not yet appeared.

Once at the hospital, Fuller, after his wife was declared dead, was cleaned up by a nurse and sedated. No instructions were given to hospital personnel not to alter Fuller's physical condition, such as preventing him from washing his hands in preparation for a Neutron Activation Analysis test. Nor was he questioned, prior to receiving sedation, about what had happened at his apartment. In fact, none of the local police at the scene, including the Chiefs of Police of Hi-Nella and Stratford, ever officially questioned Fuller as to what had taken place. Yet, it had become. quickly apparent that Fuller was at the very least the only material -78- witness to whatever had happened. There had been an almost immediate conclusion, based on someone's statement, swiftly backed up by an incomplete autopsy, that Mrs. Fuller shot herself. Thus,

the consensus became fixed that the death was a suicide and that no substantive inquiry was essential. What follow-up investigation was made was a perfunctory one; potential leads evaporated due to failure to pursue them.

Other examples of an inadequate investigation developed later that day of Friday, March 30, 1973, further compounding errors which had already been made. Someone picked up the loose bills from the floor and made a neat pile on the dining room table. A Hi-Nella police officer handled the evidence prior to receiving any clearance from the prosecutor's office. The evidence was not catalogued and tagged at the scene for identification and other investigative purposes.

Regarding the requested use of the Neutron Activation Analysis, it should be noted that since Mrs. Fuller's death in 1973 this test came to be considered inconclusive. Nonetheless, the conduct of the investigators should be measured by what they did to assure the validity of a procedure which was regarded at the time to be viable. The investigative steps were highly inadequate in this regard. For example, no effort was made to preserve the condition of Fuller's hands after 5:37 A.M. for submission to such a test -- a test which could well have been undertaken in his own best interest. By contrast, there was an effort to cover Mrs. Fuller's hands so such a test could be 'performed on her.

As for other investigatory improprieties, there remained unsolved the mystery of a comb that was found on the floor of the Fuller living room. While it was later catalogued as evidence, for some unexplained reason it was not sent by any local or county investigators to the State Police Laboratory for analysis. This comb was re-discovered by an S.C.I. investigator about 3 1/2 year~ after Mrs. Fuller's death in storage at the Hi-Nella Police Department. The S.C.I. requested a State Police test to determine if it contained any matter that might have provided clues to what had taken place in the Fuller apartment prior to 5:37 A.M. on the day of Mrs. Fuller's death. When tested, after such a long lapse of time, the presence of human blood was verified but the specific blood type could not be ascertained. Almost all key evidential material was either disturbed by the police or by anyone else who might have entered the unsecured apartment. Whether this potential but mishandled evidence would have been incriminating or exculpatory, it had lost its efficacy for any test, analytical deductions or conclusions and other requirements of an investigation.

During the course of the subsequent S.C.I. investigation, the then-Chief Medical Examiner of New Jersey, Dr. Edwin Albano, testified in 1977 that the original autopsy performed in the Fuller death was incomplete. Therefore, the State Division of Criminal Justice, at the request of the S.C.I., obtained from Superior Court an order for the exhumation of Mrs. Fuller's body, hoping that a re-autopsy might possibly clarify the manner of her death. In the opinion of the Chief Medical Examiner, there had been an insufficient examination of the deceased on which to base an opinion that the gunshot had been self-inflicted, an opinion that nevertheless was officially accepted less than six hours after the death. The original autopsy was confined to the head. Even considering the limited scope of the first autopsy in the area of the gunshot wound, the wound itself was not probed for evidence, if any, of charring, tattooing or powder smudging which could have indicated the distance at which the gun was held from the victim. There also had been no effort during the initial autopsy to ascertain whether the victim's mouth had sustained any damage from the recoiling of the gun.

At the time of the second autopsy, performed February 15, 1977, almost four years after Mrs. Fuller was buried, it was impossible to determine the existence of such trauma. -81- Although the re-autopsy revealed a fracture of the lower jaw, which had not been previously detected, it was again concluded that the gunshot wound was self-inflicted. This conclusion by Dr. Albano's office was based on the finding that there was no damage to the tongue. This finding, according to Dr. Albano, rendered the death a suicide

according to reasonable medical probability. Although Dr. Albano, who had presided over the second autopsy, later testified that there was a slim chance that the wound was not suicidal, he contended that none of the many related circumstances, conditions and findings amassed by the S.C.I. investigation would alter a verdict based only on the second autopsy.

At the completion of Dr. Albano's testimony, the S.C.I. sought further expert counsel, an established forensic pathologist who told the S.C.I. that a verdict of suicide was untenable. This expert was Dr. Frederick T. Zugibe, the Chief Medical Examiner of Rockland County, New York. After studying the investigative reports on the Fuller death at the S.C.I.'s request, he observed that there was "no history of depression, suicidal tendencies or other significant psychiatric behavior and no written or verbal evidence of intent." Dr. Zugibe also stated that not only was the first autopsy incomplete but Dr. Albano's conclusion of suicide based on the second autopsy was without firm foundation since neither homicide nor accidental death was ruled out. The absence of trauma to the tongue, he added, would not in itself be conclusive. Dr. Zugibe stated that the cause of death should have been listed as a "gunshot wound to head, pending further investigation." Considering the numerous grounds for suspicion in this case -- the disarray in the living room, the blood splatter on Fuller's shirt, the wound on the victim's index finger, the denial of an argument with contradictory statements by witnesses -- the possibility of death by a cause other than suicide remained a question that has yet to be resolved.