CHILD ABUSE, PEDIATRIC AUTOPSIES, AND OTHER PATHOLOGY THINGS

KRIS SPERRY, M. D.
Kris Sperry, M.D.

- Chief Medical Examiner for the State of Georgia (Retired)
- Forensic Pathology and Forensic Medicine Consultant
- Peachtree City, Georgia
BASIC PURPOSES OF AN AUTOPSY

• DETERMINE CAUSE OF DEATH
  • (What killed the person)

• DETERMINE MANNER OF DEATH
  • (How the death occurred)
THE MANNER OF DEATH IS AN **OPINION** STATEMENT, THAT IS SUPPOSED TO HAVE A SCIENTIFIC BASIS

- ACCIDENT
- NATURAL
- HOMICIDE
- SUICIDE
- UNDETERMINED
WHAT DEGREE OF CERTAINTY IS NECESSARY TO RENDER A MANNER OF DEATH OPINION?

• HOMICIDE: 51%? NO. 75%?: MAYBE. 95%?: YES

  UNFORTUNATELY, DIFFERENT M. E. OFFICES HAVE DIFFERENT PHILOSOPHIES; THERE ARE NO WRITTEN GUIDELINES THAT ESTABLISH PERCENTAGE PROBABILITIES FOR MANNERS OF DEATH. THUS, NON-OBJECTIVE AND NON-SCIENTIFIC “FACTORS” MAY BE UTILIZED TO JUSTIFY THE DEATH BEING CLASSIFIED AS A “HOMICIDE.”

• ACCIDENT VS. SUICIDE (EXAMPLE: SELF-INFLICTED VS. INTENTIONAL GUNSHOT WOUND OF HEAD): THERE IS NO STANDARD OPINION; THESE DEATHS ARE CLASSIFIED BASED UPON ONE’S TRAINING, AND “CONVENTION.”
UNDETERMINED MANNER OF DEATH

- SHOULD CONVEY UNCERTAINTY CONCERNING THE MANNER OF DEATH
- INSUFFICIENT REMAINS (IE, DOG FINDS A SINGLE BONE)
- INSUFFICIENT INFORMATION AND/OR PHYSICAL EVIDENCE TO DIFFERENTIATE TWO MANNERS OF DEATH:

  ACCIDENT VS. SUICIDE
  HOMICIDE VS. SUICIDE VS. ACCIDENT
  OCCASIONALLY, HOMICIDE VS. NATURAL
LITTLE KNOWN FACTS CONCERNING WHO IS DOING HOMICIDE AUTOPSIES IN BUSY M. E. OFFICES

• IN FORENSIC FELLOWSHIP PROGRAMS, MOST HOMICIDES ARE DONE BY FELLOWS IN TRAINING, WITH ONLY ~150-200 AUTOPSY EXPERIENCE. THE FELLOWS SHOULD BE “SUPERVISED” BY BOARDED STAFF FPS.

• IN BUSY OFFICES, THE FELLOW SUPERVISION OFTEN FALLS TO THE MOST JUNIOR STAFF, MANY OF WHOM ARE NO MORE THAN 1-2 YEARS OUT OF THEIR TRAINING, AND OFTEN HAVE NOT PASSED THEIR BOARD EXAMINATION.

• THEREFORE, THE UTTERLY INEXPERIENCED ARE OFTEN SUPERVISED BY THE WOEFULLY INEXPERIENCED.

• A PATTERN CAN DEVELOP WHERE NO HELP IS SOUGHT FROM SENIOR, EXPERIENCED PATHOLOGISTS
ACTUAL AUTOPSY EXPERIENCE COMING OUT OF A FORENSIC PATHOLOGY FELLOWSHIP

- MEDICAL SCHOOL: NONE
- PATHOLOGY RESIDENCY: 25-50, ALL MEDICAL CASES, NO FORENSIC CASES
- FELLOWSHIP YEAR: ABOUT 200-250 CASES
  - <10% HOMICIDES (80-90% GSWs); ~50-60% NATURAL; 20-30% ACCIDENTS AND SUICIDES.
  - HOMICIDES: RARE STRANGULATIONS, RARE CHILD ABUSE DEATHS, OCCASIONAL BEATING DEATH, OCCASIONAL STABBINGS

THEREFORE, A NEWLY BOARDED FORENSIC PATHOLOGIST HAS LITTLE TO NO PRACTICAL EXPERIENCE IN COMPLEX, DIFFICULT, OR CHILD HOMICIDES
WHY AND HOW DO MEDICAL EXAMINERS MAKE MISTAKES?

• INSUFFICIENT EXPERIENCE (PERHAPS THE BIGGEST FACTOR)
• INSUFFICIENT OR INADEQUATE TRAINING (COMPLETELY DEPENDENT UPON WHERE ONE TRAINS AND UNDERS WHO’S TUTELEG). EXPERIENCED PATHOLOGISTS WHO WORK IN SMALL M. E. OFFICES RARELY ENCOUNTER COMPLEX CASES.
• ERRORS MISSED BY PEER REVIEW OR NO PEER REVIEW DONE
• EGO (“I’VE BEEN DOING THIS FOR XXXXX YEARS AND I KNOW WHAT I’M DOING!”)
• PHILOSOPHICAL DIFFERENCES (USUALLY BASED ON TRAINING, AND SOMETIMES ON ME OFFICE PRACTICES) NOTE: YOU WILL NOT FIND SUCH INFO WRITTEN DOWN IN ME OFFICE STANDARDS, POLICIES OR PROCEDURES
• UNDUE INFLUENCE BY LAW ENFORCEMENT (USUALLY IN SMALL JURISDICTIONS, OR WHERE SHERIFF IS CORONER)
• UNINTENTIONAL BIAS
WHAT YOU CAN DO TO OBTAIN BACKGROUND INFORMATION ON A PATHOLOGIST:

• EVERYONE, ESPECIALLY JUNIOR AND NEWLY TRAINED PATHOLOGISTS, KEEPS A RECORD OF EVERY CASE THEY HAVE EVER AUTOPSIED.

• ALMOST ALL M. E. OFFICES ARE COMPUTERIZED AND CAN ACCESS THE AUTOPSY DATA FOR EACH PATHOLOGIST—#S OF CASES, TYPES, AGES OF DECEDEDENTS, MANNERS OF DEATH.

• IN MANY STATES, AUTOPSY REPORTS ARE AVAILABLE THROUGH OPEN RECORDS.

• ALL PATHOLOGY AND FORENSIC PATHOLOGY TRAINING PROGRAMS KEEP AUTOPSY RECORDS FOR EACH RESIDENT AND FELLOW.

• IS HE/SHE BOARD CERTIFIED IN F.P.? WHEN DID HE/SHE PASS THE EXAM? HOW MANY TIMES DID HE/SHE TAKE THE TEST.

• WITH RESPECT TO A CERTAIN AUTOPSY, WAS HE/SHE A FELLOW WHEN THE CASE WAS COMPLETED? IF A SUPERVISING STAFF PATHOLOGISTS, WAS HE/SHE BOARDED AT THE TIME? HOW MUCH EXPERIENCE HAD HE/SHE HAD (IE, CHILD ABUSE HOMICIDES) PRIOR TO SUPERVISING A FELLOW-IN-TRAINING WHO IS DOING A COMPLEX CASE?

• EXTENSIVE EXPERIENCE IS USUALLY VALUABLE; INEXPERIENCE IS OFTEN DANGEROUS.
CASE # 1: K. P.
(NOT ADJUDICATED AT THIS TIME)

- ONE YEAR OLD CHILD, IN CUSTODY OF BIOLOGICAL FATHER WHEN CHILD “GOES LIMP”
- TAKEN TO LOCAL HOSPITAL UNCONSCIOUS; PLACED ON VENTILATOR
- EMERGENCY CAT SCAN SHOWS BILATERAL “ACUTE ON CHRONIC” SMALL SUBDURAL HEMATOMAS
- DIAGNOSIS OF ABUSIVE HEAD TRAUMA CONSISTENT WITH SHAKEN BABY SYNDROME MADE IMMEDIATELY
- FULL SKELETAL SURVEY COMPLETELY NEGATIVE; NO EVIDENCE OF IMPACT INJURY ON SCALP OR CRANIAL SURFACE
K. P. CONTINUED

• CHILD TRANSFERRED TO ANOTHER HOSPITAL; AHT/SBS DIAGNOSIS “CONFIRMED”.

• ON THIRD HOSPITAL DAY, OPTH. CONSULTED: MULTIPLE RETINAL HEMORRHAGES FOUND IN BOTH EYES, BUT NO RETINAL TEARS OR SEPARATIONS.

• CHILD DIES ON THIRD HOSPITAL DAY; HEART, LIVER, KIDNEYS TRANSPLANTED TO LIVING RECIPIENTS
K.P. CONTINUED:

- **AUTOPSY:**
  - NO EVIDENCE OF IDENTIFIABLE IMPACT INJURY—DIAGNOSIS, BLUNT FORCE TRAUMA OF HEAD
  - BRAIN SENT DIRECTLY TO NEUROPATHOLOGIST, WHO APPEARS TO HAVE LITTLE FORENSIC EXPERIENCE.
  - NEUROPATHOLOGIST FINDS THROMBUS IN SUPERIOR SAGITTAL SINUS OF BRAIN; Examines only one single section of thrombus
  - NEUROPATHOLOGIST TAKES ONE TINY SECTION OF DURA WITH RECENT, HISTOLOGICALLY HEALING SUBDURAL HEMORRHAGE
  - EYE HISTOLOGY DESCRIBES RETINAL DETACHMENT (DIRECTLY CONTRADICTORY TO HOSPITAL OPTHALMOLOGIST EXAMINATION)
K. P., CONTINUED:

• NO CLINICIAN QUESTIONS ETIOLOGY OR SIGNIFICANCE OF BOTH ACUTE (“FRESH”) SUBDURAL HEMORRHAGE SUPERIMPOSED UPON OLDER (“CHRONIC OR HEALING”) SUBDURAL HEMORRHAGE, BUT IT IS OBVIOUS THAT ANOTHER INCIDENT OCCURRED AT LEAST A FEW DAYS BEFORE THE CHILD WAS IN THE DEFENDANT’S CUSTODY.

• PATHOLOGIST AND NEUROPATHOLOGIST DID NOT ATTEMPT TO DATE OR TIME THE OLDER SUBDURAL HEMORRHAGE

• PATHOLOGIST AND NEUROPATHOLOGIST DID NOT COMMENT ON PRESENCE OF RECENT AND HEALING SUBDURAL HEMORRHAGE OR SSST.
K. P., CONTINUED:

• NEUROPATHOLOGIST DISPOSED OF BRAIN AND DURA (SENT IT TO FUNERAL HOME FOR DISPOSAL) AFTER HE HAD CONDUCTED HIS EXAMINATION.

• THIS OCCURRENCE WAS NOT KNOWN TO MEDICAL EXAMINER’S OFFICE, AND NO CHAIN OF CUSTODY PAPERWORK APPEARS TO HAVE BEEN COMPLETED.

• THE DESTRUCTION OF THE BRAIN AND DURA PROBABLY COMPRISES SPOLIATION OF EVIDENCE. THE FEW EXISTING TISSUE SECTIONS ARE COMPLETELY INADEQUATE TO ACCURATELY DETERMINE AGE OF SUBDURAL HEMORRHAGE AND SSST; SAGITTAL SINUS THROMBOSIS, ALBEIT RARE, IS A KNOWN AND RECOGNIZED DISEASE ENTITY THAT MAY MIMIC INFLICTED HEAD TRAUMA IN CHILDREN.
K. P., CONTINUED:

- THE CHILD WAS NOT IN THE CUSTODY OF THE DEFENDANT FOR SEVERAL DAYS PRIOR TO THE CHILD’S SUDDEN DETERIORATION, BUT THERE IS CLEAR PATHOLOGIC EVIDENCE THAT THE CHILD HAD SUSTAINED INTRACRANIAL HEMORRHAGE DURING THIS TIME. THIS TIMELINE HAS BEEN, SO FAR, APPARENTLY IGNORED BY THE PHYSICIANS, PATHOLOGISTS, INVESTIGATORS, AND PROSECUTORS, ALL WHO HAVE EMBRACED ABUSIVE HEAD TRAUMA/BLUNT FORCE HEAD TRAUMA/SHAKEN BABY SYNDROME AS THE CAUSE OF DEATH, DUE TO THE ACTIONS OF THE DEFENDANT.

- TRIAL IS SET FOR SOMETIME EARLY NEXT YEAR.
CASE 2: VICTORIA MARTENS

- 10 YEAR OLD GIRL, LIVED WITH HER MOTHER, MOTHER’S BOYFRIEND, AND BOYFRIEND’S FEMALE COUSIN (JESSICA KELLEY) WHO HAD GOTTEN OUT OF PRISON A FEW DAYS EARLIER.

- ALL ADULTS HEAVILY USING METH; BOYFRIEND WAS A LOW LEVEL METH DEALER, CURRENTLY IN SEVERE TROUBLE WITH SOME METH DISTRIBUTORS FOR UNPAID BILLS AND SHOOTING HIS MOUTH OFF.

- EARLY MORNING HOURS, SMOKE ALARM GOES OFF IN APARTMENT; FIRE DEPARTMENT RESPONDS
SO, WHAT’S THE PROBLEM:

- Jessica jumps out of window, and caught immediately; she yells at police to “catch the m_____f____ who killed her!!!!”
- All adults extremely cranked on meth.
- Mother is interrogated and claims that she traded Victoria to men for sex in exchange for meth; she said she placed ads on Craig’s List (none ever found), and liked to watch.
- Governor of New Mexico (a democrat) holds press conference and states this is the worst child murder in New Mexico history, and the death penalty should be reinstated.
- District attorney requests $900,000 from legislature for “special investigation and prosecution.”
AUTOPSY FINDINGS

- MANUAL STRANGULATION (VERY OBVIOUS)
- ANAL LACERATION, “CONSISTENT WITH” ANAL SEXUAL PENETRATION PRECEDING DEATH
- POSTMORTEM DISMEMBERMENT OF ARMS, HEART, LIVER, AND CENTRAL STERNUM
- POSTMORTEM ATTEMPT TO BURN BODY
- THE BODY WAS DISMEMBERED IN THE APARTMENT, WITH EXTENSIVE ATTEMPTS TO CLEAN UP; LAUNDRY DONE, KITCHEN KNIVES HIDDEN IN DRAWER, ETC.
HERE’S THE PROBLEM:

- Mother’s “confession” found to be totally fabricated. Prosecutor and police are embarrassed, and hold press conference to fall on sword.
- Mother’s attorney quickly arranges plea to child neglect resulting in death; mother will walk in ~5 years.
- District attorney holds another press conference and scoured by media.
- Y DNA, which to date matches no one, found in three places on Victoria’s body (contact swabs, not genital or anal); special police task force created, and after 1 ½ years, no suspect has been found.
- Murder charges against boyfriend dropped, but he is supposed to be tried for child neglect resulting in death in 2020 (possibly; judge recently granted release from custody).
- Public and media pressure unreleenting.
WHO’S LEFT? (ANSWER: JESSICA AND “JOHN DOE”)  

- JESSICA KELLEY OFFERS PLEA BARGAIN TWICE, FOR CHILD NEGLECT RESULTING IN DEATH, TAMPERING WITH EVIDENCE, LYING TO POLICE  
- SENTENCE WOULD HAVE BEEN ~49 YEARS, WITH CHANCE FOR PAROLE AFTER ~20 YEARS  
- JUDGE REJECTS PLEA BOTH TIMES, SAYING THAT STATE WOULD BE UNABLE TO PROVE WHAT SHE IS PLEADING TO  
- STATE DECIDES TO PROSECUTE JESSICA, THROWING IN THE ALLEGATION THAT SHE AIDED OR ABETTED THE ANAL CSP, WHICH IS AN AGGRAVATING FELONY, ADDING ANOTHER 75 TO 100 YEARS TO THE SENTENCE, WITH REQUIREMENT TO SERVE 80%.
THIS IS WHERE I CAME IN

- CAUSE OF DEATH (STRANGULATION) NOT DISPUTED. DISMEMBERMENT IS POSTMORTEM (PROBABLY, BUT THAT IS ANOTHER STORY)

- AUTOPSY TISSUE SECTIONS WERE TAKEN BY PATHOLOGIST OF ANAL AREA—MICROSCOPIC FINDINGS DESCRIBED AS “CHRONIC INFLAMMATION”

- NO DESCRIPTION OF EXPECTED ACUTE FINDINGS: HEMORRHAGE, SWELLING, MICROSCOPIC EDEMA

- I FLY TO NEW MEXICO TO LOOK AT TISSUE SLIDES;THE MEDICAL EXAMINER’S OFFICE KNOWS I AM COMING, BUT NOT EXACTLY WHY
A & B & C & D & E

\[ \text{Anti.} \]

\[ 3 \text{ cm} \]

\[ 2 \text{ cm} \]

\[ 0.5 \text{ cm} \]
THERE IS NO EVIDENCE OF AN ACUTE ANAL SEXUAL PENETRATION AT OR AROUND DEATH

- I give pretrial interview to the state the afternoon I look at the slides (and provide photos from my iPhone).
- My opinion: Anal findings are **not CSP**, but are actually an **anal fissure**, which is weeks and possibly months old. **No evidence of sexual assault!**
- All hell breaks loose.
- Transcript shown to senior M E pathologist, who looks at slides and agrees with me.
- Another old-timer in Virginia is consulted ASAP by state, who agrees with me.
- Two weeks before trial starts (January 7), district attorney petitions N. M. Supreme Court to have judge removed.
- Motion is denied in 24 hours; judge is now extremely pissed at prosecutors and police.
FOUR DAYS BEFORE TRIAL, STATE FORMALLY DROPS CSP CHARGES; DISTRICT ATTORNEY FALLS ON SWORD FOR A THIRD TIME, AND IS CRUCIFIED IN THE MEDIA

FIRST DAY OF TRIAL, PLEA IS OFFERED AGAIN FOR THE SAME THINGS; THIS TIME, THE PLEA IS “NOLO CONTENDRE” RATHER THAN “GUILTY”

JUDGE ACCEPTS PLEA; JESSICA SENTENCED TO 51 YEARS, WITH POSSIBLE PAROLE IN ~20 YEARS.

TASK FORCE TO FIND MYSTERY JOHN DOE REACTIVATED

A FRIEND OF MINE (A RETIRED ALBUQUERQUE DETECTIVE) GETS A LUCRATIVE CONTRACT TO TRAIN THESE IDIOTS.
SO, WHY DID THIS HAPPEN AT THE MEDICAL EXAMINER’S OFFICE???

- AUTOPSY WAS DONE BY A FORENSIC FELLOW, IN HER SECOND MONTH OF TRAINING.
- AUTOPSY WAS “SUPERVISED” BY A PATHOLOGIST WHO HAD FINISHED HIS FELLOWSHIP TWO MONTHS EARLIER, AND HAD NOT TAKEN HIS BOARD EXAM YET.
- THE PEER REVIEW PROGRAM HAD BEEN SUSPENDED DUE TO STAFFING SHORTAGES; NO SENIOR PATHOLOGIST EVER LOOKED AT THE CASE OR WAS ASKED TO REVIEW THE CASE.
- THE JUNIOR PATHOLOGISTS DID NOT KNOW WHAT THEY WERE DOING, BUT EVEN WORSE, THOUGHT THAT THEY KNEW WHAT THEY WERE DOING.
- COMBINATION OF WOEFUL INEXPERIENCE, AND NOT KNOWING WHEN TO ASK FOR HELP.
- [NOTE: BOTH PATHOLOGISTS ARE NOW GONE FROM M. E., OFFICE, HAVING MOVED ELSEWHERE]
RESOURCES

- Sudden Unexplained Infant Death Investigation Reporting Form; U. S. Department of Health and Human Services (Centers for Disease Control)
- International Standardized Autopsy Protocol for Cases of Unexpected Infant Death
MORE RESOURCES

• Statement of the Innocence Network on Shaken Baby Syndrome/Abusive Head Trauma, August 31, 2019


KRIS SPERRY, M. D.

- FORENSIC PATHOLOGIST, MEDICAL EXAMINER

- 302 WATERMARK DRIVE
  PEACHTREE CITY, GEORGIA  30269

- HOME/OFFICE:  770-486-5380
  CELL:  404-444-2167

- EMAIL:  STIFFDOC@BELL lumini.NET