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Lawyer Meets Forensic Pathologist

George E. Hall*

"I T DON'T MEAN THE DEAD BODY! It don't mean the dead body!" By the repetition, with great emotion and much gesticulating, of this purposely ungrammatical statement, my law school professor of criminal law firmly implanted in the minds of his students the idea that there is more to "corpus delicti" than the mere existence of a cadaver. Those of us whose practice has led us away from the criminal law may have even forgotten the existence of these two Latin words, to say nothing of being able to explain that they mean! Actually, to prove the "corpus delicti" it is necessary to prove two fundamental facts: first, the death; and secondly, the existence of criminal agency as its cause.

The vast majority of deaths in this country undoubtedly occur in a home or hospital while the deceased has been under the immediate or recent care of a physician. In such cases, the attending physician will execute the medical portion of the death certificate. It has been estimated, however, that from eight to twelve percent of all deaths occur unexpectedly and from clinically obscure causes. When any of these deaths result from violence, or under suspicious circumstances, or without medical attention, there is no attending physician to execute the death certificate and the body is turned over to the local coroner for investigation. He may conduct an inquest to determine the legal cause of death and he may, when necessary, request a physician to perform an autopsy to determine the medical cause of death. Until recently, this physician was known as the coroner's physician, and he still is in most areas. A few states have discontinued the coroner system and adopted what is known as the medical examiner system. In either case, the purpose of the medicolegal investigation is to determine the cause and manner of death and the physician who functions for either system is what is commonly known as a forensic pathologist.

A pathologist, among other things, studies the organs and tissues of living and deceased persons to determine, if possible, the presence of disease or the cause of death. The forensic pathologist performs an autopsy with more than just the cause of death in mind. He tries to answer for the police investigators such questions, for example, as:

- (1) had the bullet that killed the man been fired from behind or in front;
- (2) had the gun been held close to or at a distance from the victim's head at the moment of firing;

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- (3) were there any traces of metal along the tract of the wound that might show whether it had been produced by a lead or by a jacketed bullet;
- (4) had the victim been immediately incapacitated by the wound or might he have walked as far as a dozen steps after being wounded;
- (5) did the now-buried body disclose certain cutaneous scars and blemishes or dental peculiarities that would indicate whether or not he had been correctly identified, and
- (6) had the victim been drunk at the time he received the fatal injury.

To refresh our recollection about the "corpus delicti" and to appreciate, again, how well law and medicine cooperate in this area of the administration of justice, let's visit the office of the medical examiner of one of our large cities.

This was my first real visit to a medical examiner's office, and he was trying to explain just what it is that a forensic pathologist does and how his training must differ a little bit from that of the pathologist who spends his time in the hospital studying biopsy material for diagnostic purposes. He was interrupted by the phone. When he hung up he turned and said: "That was the autopsy room. They want me to help check the possibility of a criminal abortion in a body that was brought in this morning. Come along with me. Perhaps I can show you some of the things we do better than I can tell you."

There were eight bodies to be autopsied that morning. "A light morning," he said. "We autopsy an average of twelve bodies a day here in this office." He went directly to a table on which was resting the body of a thirty-four-year-old woman who had died in one of the local hospitals early that morning, just shortly after her arrival. The death was within the jurisdiction of a coroner or medical examiner. "When a person is dead on arrival at a hospital, or dies almost at once, the body is sent down here," he told me. "No doctor at the hospital wants to sign the death certificate under those circumstances." The examination up to this point had clearly demonstrated that the primary cause of death was the rupture of an ectopic pregnancy. The big question: Had the rupture been spontaneous or had it been assisted in some way by human means? The pregnancy had been implanted near the isthmus of the tube and a tear had occurred almost at the point where the tube joins the uterus. If the rupture had been spontaneous, the medical examiner pointed out, the bleeding could very well have been the cause of death. An examination of the walls of the uterus, however, clearly indicated that some instrumentation had been administered because the walls were entirely free from the decidua which would normally be present in a pregnant uterus. After a little probing the medical examiner discovered a small hole, about the size of a steel knitting needle,

between the uterus and the tube. "This hole is too neat and too conveniently located to have resulted from a spontaneous rupture," he pointed out. "It could only result from a sudden thrust with a sharp instrument." After consultation with his assistant pathologist, he concluded that the hole had been made by the physician who had performed the curettement. He reconstructed the case somewhat as follows: the woman had gone to the doctor's office at about 9:30 the previous evening. The doctor, without discovering the ectopic pregnancy, proceeded to perform a curettement and pushed the instrument through the very thin and stretched wall of the isthmus. The patient then left the office, commenced to bleed about an hour later, was rushed to the hospital by a friend, and died from the massive hemorrhage.

This is probably about where the hospital pathologist would bow out of the picture. The medical examiner or coroner's physician, however, must now explain his findings to the police so that they can intelligently investigate the doctor's part in the affair. If he had performed the curettement knowing that the woman was pregnant, a charge of criminal abortion will probably result. If he failed to discover the ectopic pregnancy or, having discovered it, failed to send the patient to a hospital, there might well be a malpractice case filed by the surviving husband.

On a nearby table was the body of a girl in her early twenties who had apparently died as the result of multiple stab wounds in her chest. That this was the actual cause of death had to be verified, however, so that the police could intelligently investigate the case. "Death may have resulted from natural causes prior to the inflicting of the stab wounds, which may have been inflicted after death by a sex maniac," the pathologist pointed out, "and although he would certainly be a reprehensible character, he shouldn't be charged with the girl's murder." The forensic pathologist is always happy to have a part in proving a person innocent. "In one case, I remember," he continued, "a man had been shot through the chest, had staggered about 200 yards from the place of the shooting and then dropped dead. Witnesses to the affair stated that the accused was within 20 feet of the deceased at the time the gun went off. On the basis of this, and other evidence, this man was charged with murder. The forensic pathologist, however, stated that because of the degree of powder burns on the chest of the murdered man, he must have been shot from very close range, probably three to four feet. Since the witnesses were willing to place the accused within 20 feet of the murdered man but not within the three or four feet established as necessary by the findings, the accused was found not guilty. Someone else had done the shooting.

On the center table was a three-month-old infant who had died suddenly in its crib. An autopsy was just being completed to try to determine whether the cause of death was the aspiration of some foreign body. It was not, and the body was sent back to the medical school hospital.

On other tables were a man and woman, both in their middle or late seventies, who had lived in the same apartment building and had been found dead within a short time of each other. An autopsy was necessary in their cases to determine whether death had resulted from carbon monoxide poisoning. If it had, the other inhabitants of the apartment would be notified and an effort made to determine the location of the gas leak. The examination of the man indicated without any question that he had merely drunk himself to death—the cirrhosis was far advanced. The examination of the woman revealed that she, at the age of seventy-seven, had died from chronic fibrous pneumonia which had finally involved the lobes of both lungs. Their fellow apartment dwellers did not have to worry about gas leaks for the time being.

The performance of the post mortem examination itself is not the only activity of the forensic pathologist in the autopsy room. He must then dictate a clear report of the examination for his files and for the education of trainees and of the police. In addition, for both record and education purposes, he should take pictures. "It is real lucky when the forensic pathologist is also an amateur photographer" said my medical examiner friend. He took pictures of the uterus and tube in the case first described above so that the hole made by some instrument could later be visualized as well as orally described in the report. A number of pictures were made, from various angles, of the stab wounds in the second case described. These may be of great value to the police if a criminal prosecution is found to be necessary.

Forensic medicine is that part of medical science which is employed by the legal authorities for the solution of legal problems. Theoretically all branches of medicine may be included in this definition, for the law has used them all when need has arisen, and any doctor who testifies in court in his professional capacity can be considered a practitioner of legal medicine. The term, however, is usually restricted to that specialized branch of medical knowledge used by physicians officially employed by the local government of a community when they investigate suspicious and violent deaths, or cases involving nonfatal injury such as rapes, sexual offenses or abortions which may subsequently come before the courts. The forensic pathologist is a trained pathologist who concentrates his efforts on the investigation of deaths which have occurred as result of violence or under suspicious circumstances.

For many years there has been an American Board of Pathology which has examined and certified diplomates in that specialty. Last year the Advisory Board of Medical Specialties and the Council on Medical Education of the American Medical Association approved the creation of a sub-specialty in Forensic Pathology. The original diplomates were appointed and the first examination held. Another examination was to be held in April,

1960 and annually thereafter. To obtain certification in this subspecialty, a physician must be a diplomate of the American Board of Pathology in pathologic anatomy plus a year of extra training. This training will have to include the performance of a minimum of 150 medicolegal autopsies, 25 or more of which are on bodies of persons known or suspected of having died by homicide. The year of extra training will also include lectures, seminars, conferences and preceptorships furnishing instruction in photography, toxicology, general police science, bacteriology, immunology, etc., as applied in forensic pathology. The person in charge of this instruction should be a medical examiner or a coroner's physician of recognized standing.

One thing that should be emphasized about the work of the forensic pathologist is that there are limitations on the things he can determine just by his own investigation. Often the human element is necessary to fully explain how a death occurred and also to indicate to the pathologist the need for a thorough post mortem examination. By way of example, the medical examiner related the story of a woman in her late thirties who had been found dead in bed in her own apartment. When the police and the pathologist arrived, there appeared to be no evidence of foul play, but since the death had occurred in the absence of medical attention, the circumstances gave jurisdiction of the body to the medical examiner, and the body was removed to the morgue. An autopsy, in no time at all, by the pathologist located a ruptured intracranial aneurysm, and there seemed to be no reason why the case should not be closed as death due to natural causes. In discussing the circumstances of death with some friends of the deceased, however, a suddenly different light was put on the whole affair. One of the friends happened to mention that he had called the deceased's apartment a few hours before death was thought to have occurred. "But, I seem to recall that a man answered the phone," he said. "I wonder if her husband could have been there."

Further conversation brought out the fact that the husband of the deceased, although having previously been suffering from mental illness and a patient in a mental hospital, had escaped therefrom but a day or two before. He was thought to have headed for Cuba. With this new bit of information, the medical examiner was motivated to do a more thorough autopsy. Now, a large mass of seminal fluid was found in the vagina. This was typed as Group O. Who had had intercourse with the deceased just before or just after her death? The husband was apprehended but an immigration card which he carried indicated that he was a Group A. Efforts to locate some other man who might have been present in the deceased's apartment were completely fruitless until finally the hematologist who had done the grouping tests suggested that the husband be retested. It then developed that he was in fact Group O and that the information on the

immigration card was wrong. At last the husband told the story. He had escaped from the mental hospital and headed out of the country all right. He then doubled back, however, and went to his wife's apartment where he strangled her during the performance of a forcible intercourse and then left. The case was closed with a conviction for homicide.

"But if the wife had been strangled, wouldn't there have been evidence of that fact at autopsy?" The forensic pathologist explained that such was not necessarily so. Quite frequently strangulation will occur with no evidence of external force and no demonstrable evidence on autopsy. This is usually accomplished by the method known as "Burking," named after one of the more infamous of the body snatchers back in the early part of the nineteenth century. Burke and his accomplice used to obtain a supply of bodies which were then sold to medical schools in Edinburgh. Their method consisted of placing one hand over the victim's nose and mouth while the other hand pressed the lower jaw towards the upper, the combined maneuver causing rapid asphyxiation and little if any evidence of violence. The same result can be accomplished by the use of a soft cloth over the nose and mouth. It was the latter method which the deceased's husband admitted to having used. "Actually," the medical examiner concluded, "it was most likely a combination of the forcible intercourse and the sudden strangulation which caused the latent aneurysm to rupture."

Another example of the importance to the forensic pathologist of a knowledge of the facts and circumstances surrounding the death is the suffocation of a person in a drunken stupor or while under the influence of a barbiturate. A young woman found nude and face down on her own bed died as a result of suffocation. Of this the medical examiner was certain. He was also certain that she had imbibed enough alcohol to have caused the suffocation during a drunken stupor. What he could not tell, however, was whether or not some guest at her alcoholic debauch had, perhaps accidentally or perhaps on purpose, covered her head with a pillow for a moment or two.

My visit left me even more convinced than I had previously been that members of the legal profession should become better acquainted with the important position played by the forensic pathologist, be he a medical examiner or a coroner's physician, in the administration of both the criminal and civil law. As Dr. Lester Adelson, Coroner's Office of Cuyahoga County, Ohio, and Department of Pathology, Western Reserve University School of Medicine, said at the American Academy of Forensic Sciences meeting in Cleveland in 1958: "With the increasing propensity toward litigation which is so much a part of our current scene, there is scarcely a disease or disorder, congenital or acquired, natural or traumatic, whether it be degenerative, infectious, neoplastic or metabolic, which has not moved from its usual

native locus in the clinic, operating amphitheater, hospital bed or autopsy room and made its appearance before some tribunal." Attorneys should know that there are physicians whose primary interest is the acquisition of accurate data and knowledge that bear on the cause, manner and mechanisms of death and any related phenomena. Often the information gleaned by the forensic pathologist ends up in the court room in a workmen's compensation case, personal injury case, or malpractice case.

Perhaps this brief visit with a forensic pathologist will result in a better understanding of the cooperative activities of law and medicine in this area. *Corpus delicti*, as we know, doesn't mean the dead body alone. From the dead body alone, however, the trained forensic pathologist can often establish the mechanism of death. The forensic pathologist is, therefore, a key person in convicting the guilty and absolving the innocent in a vast number of both criminal and civil cases.