

Star-Telegram

With little oversight in Texas, autopsies often careless

Posted Saturday, Sep. 26, 2009

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The man almost took the dirty secret of his death to his grave. The Tarrant County medical examiner's office said injur wreck killed him. But after a funeral director hundreds of miles away found a bullet in the man's head, authorities realiz loose.

Worse has happened in the autopsy suites of Texas medical examiners.

A child molester faked his own death and almost got away with it after the Travis County medical examiner mistook th 81-year-old woman for the 23-year-old man.

A woman was on her way to Death Row in Alabama after a medical examiner now working in Texas said she had suff The sad truth, other experts said, was that the baby was stillborn.

An Austin baby sitter has spent years on Death Row for a baby's murder. The medical examiner whose testimony help says the baby's death may have been an accident.

The medical examiner is the doctor-detective who is supposed to extract truth from the hodgepodge of details about a body tissues, organs and fluids, gathering data from a crime scene and examining lab results, the medical examiner p how and why someone has died. Those judgments are of consequence for violent or suspicious deaths, as well as for and those that might result from negligence or improper care.

County officials say the state's system works well by unraveling questions surrounding death at a reasonable cost to t courtroom, much of the work, they say, stands up to scrutiny.

But over the years, Texas medical examiners have misidentified bodies, botched examinations and had to do a double individuals later exonerated by law enforcement. That has opened the door for innocent men and women to go to pris free. The slapdash work of some medical examiners could also allow public health threats, wrongful deaths and preve to go undetected, experts warn.

"The work of the medical examiner's office is just so slipshod," said Tommy Turner, the former special prosecutor who medical examiner behind bars for falsifying autopsies.

Critics say the medical examiner's office is "the last bastion of junk science." The problems, they say, are similar to th state's crime labs for years: lack of performance standards, poor documentation, a shortage of qualified personnel an

"The state does not keep track of MEs in any shape, form or fashion," Bexar County Chief Medical Examiner Randall I doesn't even know how many certified forensic pathologists work in government offices, he added.

And a medical examiner doesn't have to be trained in forensics or pass a specialty exam to do an autopsy. All that's r medical license. That's akin to having your family doctor do brain surgery, says a growing chorus of medical examiner

"It's a travesty for Texas," Frost said. "Most people are horrified that there are no qualifications for this field under the l when I tell them that."

Thoroughness questioned

How often do autopsy blunders occur? No one knows because there are no state data to track when a medical exami determination or when colleagues resoundingly disagree with him or her, leading to different outcomes on death certifi

The Texas Medical Board keeps records on physicians found to have fallen short of the standards of care or to have committed violations. But for years, it didn't consider the performance of an autopsy as the practice of medicine because an autopsy could harm the patient. The board reversed its position in 2000 when it disciplined an unlicensed physician working at the Houston medical examiner's office. The office was the target of whistle-blower lawsuits and complaints from the district attorney.

Still, the board said it receives few complaints about medical examiners.

County officials, among others, say that if there are problems with medical examiners' opinions, the adversarial system helps ensure that they are exposed. By and large, there have been no such revelations, the officials say.

"We've not had district attorneys coming and saying, 'We're losing because we're not getting quality autopsy work,'" said the executive director of the Texas Conference of Urban Counties. "If there was a widespread problem with the autopsy process, I think that DAs would be coming to their fellow county officials and raising the alarm."

In Tarrant County, officials say there may be problems elsewhere in Texas, but they are confident in Chief Medical Examiner Peerwani's office.

"I've heard horror stories from other counties about their medical examiner," County Commissioner Gary Fickes said. "I'm not made aware of any major problems, just a few little items, but I don't think they are of any magnitude."

Turner sees flaws in such arguments. Who would complain, he asks. "First of all, the person that you're performing the autopsy on," he said. "They're not going to complain."

And grieving families may not know whether a licensed physician examined their loved one or whether appropriate tests were performed, he noted.

Concerns are being pushed into the limelight, though. Convictions have been overturned or called into question because of sloppy autopsy records, failure to conduct vital tests and preserve key evidence, or the use of flawed methods.

A half-dozen forensic pathologists have criticized Webb County Chief Medical Examiner Corinne Stern's autopsy of a child who worked in Alabama. She said the infant was suffocated, but other experts said that her finding was based on junk science. The child was stillborn. As a result, a capital murder charge against the mother was dismissed.

Some medical examiners themselves question the thoroughness of some autopsies. Their concerns were echoed in a report from the National Academy of Sciences to Congress this year. It said the quality of forensic science work — including crime lab work and medical examiners' offices — is undermined by inadequate training, inconsistent practices and a lack of oversight.

"These shortcomings pose a threat to the quality and credibility of forensic science practice and its service to the justice system," the report warns.

Major blunders

Elizabeth Gard's husband died within 48 hours of being admitted to an El Paso hospital. She waited 2 1/2 months for a report wondering whether his death resulted from injuries in a traffic accident six weeks earlier or poor medical care after the accident.

When she finally saw the report, she was shocked to see her husband identified as Hispanic.

"He was white, blue eyes, really white. He was pink, a big white guy," she said. "There's no mistake he was a white man."

She called the medical examiner, and the error was corrected. But other problems surfaced that made her question the quality of care. She was disturbed that no toxicology test was performed.

Medical examiners have goofed up eye color and gender. They've made mistakes on the locations of scars and tattoo locations, gallbladders and appendixes that had long since been removed — even confused one body for another.

Some medical examiners say such minor oversights don't indicate that the case has been bungled. Typos occur, and sometimes the name of the deceased is misspelled, Peerwani said.

An appendix may have been removed, but a fingertip-size portion could remain, he said.

But such errors call into question the integrity of death investigations, said Burnet County Justice of the Peace Peggy numerous blunders by the Travis County medical examiner's office when it was headed by Dr. Roberto Bayardo.

Burnet County doesn't have a medical examiner, so like other counties with populations under 1 million, it relies on just sign death certificates. Simon goes to death scenes to perform the inquest, an inquiry to determine the cause of death

Once, she saw a car crash victim's dentures lying next to his body. But when she read the autopsy report, it said the man was natural and in good condition.

Four years ago, she saw a charred body pulled from a car that was set on fire. Police identified the body as that of a man in prison for molesting a child. Apparently, he had killed himself.

Final identification depended on findings by the medical examiner, which conducted autopsies not only for Travis but also for other counties.

The autopsy, by Dr. Vladimir Parungao, reported that the body had a penis, as well as urine in the bladder. But Simon questioned the size of the body at the scene, challenged the autopsy and ordered DNA testing. It turned out the body was that of a man who had died more than a year earlier.

"A penis? Urine in the bladder? That would be pretty unlikely, I would think," Simon said.

The convicted man, Clayton Wayne Daniels, had dug up the body of the 81-year-old to fake his death.

"I wonder ... what mistakes your office has made?" Simon wrote the medical examiner.

Parungao told the *Star-Telegram* that when he received the body, police had identified it as Daniels. The body was so small he had trouble identifying organs.

"I should have been very careful," he said. "I let my guard down."

He also said that Bayardo required pathologists to quickly issue autopsy reports, even before tests were completed; if a mistake came up, the policy was to amend the reports.

Bayardo, who has since retired, said that even competent medical examiners, like Parungao, can make mistakes. "He was 100 percent," Bayardo said of his deputy in a recent interview.

Such inaccuracies can be corrected, he said; medical examiners can change their opinions, as he has done. Others say that some medical examiners to alter their conclusions shows their shaky foundation. In May 2007, Bayardo changed the verdict that helped put Austin baby sitter Cathy Lynn Henderson on Death Row. In 1995, he testified that the baby died from intentional suffocation. Experts hired by Henderson's attorneys challenged the opinion, Bayardo said he could not tell whether that had been intentional. Henderson had accidentally dropped the child, as she claimed.

A criminal appeals court granted Henderson a reprieve two days before her scheduled execution. Her case was sent to the state supreme court where it is pending.

A team of other experts, including Galveston County Chief Medical Examiner Stephen Pustilnik, has reviewed the case and said Bayardo was right the first time. Pustilnik said the baby's skull had been shattered and the death was clearly a homicide.

It took much probing to discover flaws in autopsies by former Lubbock Chief Medical Examiner Ralph Erdmann. After years of concerns about errors in his work, Turner got court permission to disinter bodies so another pathologist could review them. When the bodies were dug up, truths were unveiled.

A bullet was found inside the head of a man whose autopsy report had noted an exit wound on the top of his head. A baby's intact intestines, though Erdmann had said the baby's bowels had been ruptured when he was struck.

Missing evidence

Lax laws and poor oversight allow such lapses, critics say.

One significant weakness: Texas law doesn't require medical examiners to take notes, produce body diagrams or photographs. Such documentation is essential, said Dr. Ray Fernandez, chief medical examiner for Nueces County. Without it, a medical examiner can't back up an autopsy in court or show the validity of conclusions if challenged.

"A good report is based on how well that person documents their observations, so that another pathologist looking at the diagrams, the report — looking at all of it — can at least assess the accuracy of what was done," said Dr. LeRoy Riddi, a pathologist who is a professor at the University of South Alabama. "The interpretations are something else."

In one of the state's most high-profile cases — the 1991 murders of four teenage girls at an Austin yogurt shop — pathologist Paul Brown, who did the autopsies for Travis County, told jurors that he did not take crime scene photographs but relied on police.

He also said that "a lot of times" information he dictated didn't get into his autopsy reports or he didn't dictate information that should have been included. Two men convicted in the slayings, based largely on their confessions, were released this summer after they showed that another man could have been involved.

Bayardo told the *Star-Telegram* that he never took notes because he feared they would be subpoenaed.

"That's always a problem," he said.

Instead, he would create an autopsy report by dictating information on tape.

In another case that drew in the Tarrant medical examiner's office, capital murder charges against a young couple were dropped years after their baby's death when some evidence apparently disappeared.

That case offered up a merry-go-round of opinions.

Bayardo declared the cause of death undetermined. Peerwani, who was asked for a separate opinion, released a report that the baby died of head trauma and that the case was a homicide.

Bayardo questioned how Peerwani — who didn't examine the brain because it was apparently misplaced — came to that conclusion. "How can you say she died of head injuries when you have no brain?" Bayardo said in a recent interview.

Peerwani has said he had slides with brain specimens and sent them to a specialist for review. The charges were dropped because the evidence could not be found.

In a recent interview, Peerwani supported his preliminary finding of homicide: "A kid that little doesn't have so many ribs." The Texas Medical Board did take action after whistle-blowers complained about former Harris County Medical Examiner. Initially, it sought to revoke or suspend her license after finding that she used an unlicensed pathologist to conduct her autopsies. Eventually, though, she was fined \$1,000.

Questions about her work continued to be raised.

Numerous pathologists, including Dr. Lloyd White of the Tarrant County medical examiner's office, have questioned the cause of death in the slaying of Conroe college student Melissa Trotter.

The time of the woman's death was a critical piece of evidence. Carter said the young woman had been dead for 25 days when her body was found north of Houston. That helped persuade a jury to convict an ex-con. He could not have committed the crime if he had been dead a shorter time, because he was in jail for traffic violations.

But forensic pathologists testifying for the defense pointed to evidence that they said showed the body could not have been dead for 25 days. The young woman's weight before she died was just 4 pounds more than when Carter performed the autopsy. Trotter had been dead for 25 days, her body would have been in more advanced stages of decomposition and weighed more, the pathologists said.

Dr. Glenn Larkin, a former medical examiner in Pennsylvania, also called Carter's autopsy "sloppy," "irresponsible" and that key medical records were missing and that some tissue samples had disappeared.

After the criticism, Carter signed an affidavit agreeing that Trotter could not have been dead for more than two weeks. problems on not having key evidence during the autopsy. A video of the crime scene and medical records were not av wrote.

Carter did not respond to repeated requests for comment.

The convicted man's execution was postponed, but prosecutors are standing by Carter's original autopsy report. The clamoring for the appeals court to intervene, points out that the state is rejecting opinions from some of the very patho have relied on in other criminal cases.

"If all [these] medical examiners are all wrong on Melissa Trotter, how can they be right on all other cases?" said priva investigator Tina Church.

"There's no room for error when somebody's life depends on their findings."

Autopsies required

In Texas, inquests by medical examiners are required when:

- A person dies within 24 hours of admission to a hospital or institution.
- A person dies in prison or jail.
- A person is killed or dies an unnatural death.
- A person dies in the absence of one or more good witnesses.
- A body part or body of a person is found and the cause or circumstances of death are unknown.
- The circumstances of the death are suspicious.
- A person commits suicide or is suspected of having done so.
- A person dies without having been attended by a physician and the cause of death is unknown.
- A child younger than 6 dies and the death is reported under state law dealing with child welfare services.
- The attending physician is not certain about the cause of death.

Source: Texas law

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