Text published with the kind permission of the speaker

IMAGING THE DEAD

(Lecture at the Imaging Conference of the Royal Society of Medicine, U.K. on 21 October 2010)

Scene setting and background

Roy Palmer LLB MB BS FFFLM

H.M. Coroner, South London; Deputy Coroner, City of London
Medical Secretary, Coroners Society of England and Wales

H M Coroner's Court, Barclay Road, Croydon CR9 3NE
hmc@southlondoncoroner.org

Much of what I have to say will (I hope) be familiar to many in the audience. However, I believe it is appropriate to go back to basics to set the scene for what is to follow later today. I also do so because at least some in the room might not understand why coroners and others involved in the registration and certification of deaths do what they do.

You may or may not be able to live in peace but assuredly you cannot die entirely in peace! Once dead, there are in England and Wales some statutory procedures to be followed. [And just in case anyone is unsure, a statutory procedure is one made by parliament, either in an Act of Parliament or in a statutory instrument made under the authority of a parent statute.]

In many countries of the world, no-one is too troubled about causes of death; if you die, especially in a hot country, the likelihood is that you will be buried the same day. There will probably be no autopsy and precious little forensic investigation. However, things are different in England and Wales. At the risk of offending the Principality, I will now just refer to England, but please be assured that it includes Wales. Things in Scotland and in Northern Ireland are somewhat different but, for today's purposes, not much different.

For decades if not for centuries, England has wanted a say in the means by which you come by your death. "They" (officialdom) want to know what you died of and to list and categorise it, for a variety of purposes.

So, if a death occurs in England, the death has to be registered. It does not matter whether or not you are a British citizen; the same rules apply to all, including visitors to the country who die here; and information about the death has to be passed to the Registrar of Births and Deaths by "the informant" within 5 days.

Parliament has set out the rules in the Births and Deaths Registration Act, 1953 and in rules made thereunder. Section 15 provides –

> *"... the death of every person dying in England or Wales and the cause thereof shall be registered by the registrar of births and deaths for the sub–district in which the death occurred by entering in a register kept for that sub–district such particulars concerning the death as may be prescribed:*
>
> *Provided that where a dead body is found and no information as to the place of death is available, the death shall be registered by the registrar of births and deaths for the sub–district in which the body is found."*

Parliament has imposed duties on certain persons to report the death – I won't trouble you with the details, but they are set out *in extenso* in sections 16 and 17, depending on whether the deceased person died at home or elsewhere.

If you were undergoing medical treatment when you died, your attending doctor must (no ifs and buts, it is mandatory) issue a medical certificate of the cause of death (MCCD). Section 22 of the Act provides:

> *"... (1) In the case of the death of any person who has been attended during his last illness by a registered medical practitioner, that practitioner shall sign a certificate in the prescribed form stating to the best of his knowledge and belief the cause of death and shall forthwith deliver that certificate to the registrar."*

Various complications come into play if the doctor in attendance cannot or will not issue the MCCD. I need not trouble you with all the details, but they usually involve informing one of Her Majesty's Coroners. Incidentally, for clarity, it is the Registrar of Deaths who issues the "Death Certificate" once the death has been registered. Doctors may believe that they issue the death certificate but they do not. What they issue is the MCCD.

The point is that for a death to be registered, there must be a known, natural medical cause of death and that cause must be made known to the Registrar, however much the individual shunned medical care during life or wished to keep personal and confidential his or her medical information. Without an MCCD there is scant prospect of avoiding some form of examination of the body after death to ascertain the cause of death.

If there is no doctor in attendance during the final illness, or the doctor cannot certify a medical cause to the best of his knowledge and belief, the likelihood is that the case will be

referred to the relevant coroner, responsible for the area or district in which the body was found. (Note, please, that the certifying doctor does not have to be sure beyond reasonable doubt, only to the best of his or her knowledge and belief.)

The Coroner is also bound by statute in what he can and cannot do. The Office is ancient – dating back at least as far as 1184. The current statute governing Coroners is the Coroners Act 1988 – but do not be deceived by the date! The 1988 Act is largely based on a statute dating from the reign of Queen Victoria which, in turn, was based on even more ancient statutes dating back to Richard III.

You will know that in November 2009 a new Coroners and Justice Act 2009 was passed by Parliament and received Royal Assent. However, that Act has yet to be implemented and is currently a victim of the Coalition Government's spending review. We do not know how much of the new Act will be implemented, insofar as it involves coroners (some of the Justice parts of the Act have been implemented). We do know, as of last Thursday, that there will be no Chief Coroner, no Treasure Coroner and no Medical Adviser to the Chief Coroner. Indications are that some of the provisions of the new Act will be in force by April 2012. So, for the immediate future we continue to be governed by the 1988 Act.

At present a Coroner's jurisdiction is engaged if there is a body lying in his or her district and the death was violent or unnatural or was sudden and the cause not known.

> *"8 Duty to hold inquest*
>
> *(1) Where a coroner is informed that the body of a person ("the deceased") is lying within his district and there is reasonable cause to suspect that the deceased—*
>
> *(a) has died a violent or an unnatural death;*
>
> *(b) has died a sudden death of which the cause is unknown; or*
>
> *(c) has died in prison or in such a place or in such circumstances as to require an inquest under any other Act, then, whether the cause of death arose within his district or not, the coroner shall as soon as practicable hold an inquest into the death of the deceased either with or, subject to subsection (3) below, without a jury."*

In those circumstances the coroner is legally obliged to hold an inquest unless s/he can make use of section 19 of the Coroners Act 1988.

> *"19 Post-mortem examination without inquest*
>
> *(1) Where a coroner is informed that the body of a person is lying within his district and there is reasonable cause to suspect that the person has died a sudden death of which the cause is unknown, the coroner may, if he is of opinion that a post-mortem examination may prove an inquest to be unnecessary—*
>
> *(a) direct any legally qualified medical practitioner whom, if an inquest were held, he would be entitled to summon as a medical witness under section 21 below; or*
>
> *(b) request any other legally qualified medical practitioner, to make a post-mortem examination of the body and to report the result of the examination to the coroner in writing.*
>
> *(2) For the purposes of a post-mortem examination under this section, the coroner and any person directed or requested by him to make the examination shall have the like powers, authorities and immunities as if the examination were a post-mortem examination directed by the coroner at an inquest into the death of the deceased.*
>
> *(3) Where a post-mortem examination is made under this section and the coroner is satisfied as a result of it that an inquest is unnecessary, he shall send to the registrar of deaths a certificate under his hand stating the cause of death as disclosed by the report of the person making the examination.*
>
> *(4) Nothing in this section shall be construed as authorising the coroner to dispense with an inquest in any case where there is reasonable cause to suspect that the deceased—*
>
> *(a) has died a violent or an unnatural death; or*
>
> *(b) has died in prison or in such a place or in such circumstances as to require an inquest under any other Act."*

So, for many decades, if not centuries, all deaths where a doctor is unable to issue a MCCD in a form that is acceptable to the Registrar of Deaths lead to the involvement of the coroner, who is obliged to inquire into the circumstances in order to fulfil his statutory duty, which is to answer four questions (Coroners Act 1988, section 11(5)):

- Who the deceased was (identification); and
- How, when and where the deceased came by his death

"11 (5) An inquisition —

(a) shall be in writing under the hand of the coroner and, in the case of an inquest held with a jury, under the hands of the jurors who concur in the verdict;

(b) shall set out, so far as such particulars have been proved—

(i) who the deceased was; and
(ii) how, when and where the deceased came by his death."

This is not the right time and place to consider deeper issues, such as why in England there is perceived to be a need to establish and record reliable causes of death, unlike some countries in the world. Nor is this the time and place to consider the standard to which a coroner's autopsy should be performed, important thought these issues undoubtedly are.

So, returning to the background to today's meeting, a cause of death has to be provided in a form acceptable to the Registrar of Deaths. If there is no "registered medical practitioner in attendance" in the final illness to complete the MCCD, and within the statutory time frame (5 days), there is little option but for the case to be referred to the coroner.

In the days when patients had a personal general practitioner who was also responsible for out-of-hours calls, there was less of a problem in securing MCCDs in good time. The development of group practices, longer holidays, deputising services and the removal of the need for general practitioners to be available out-of-hours and because patients now attend A&E departments rather than the GP, it is increasingly difficult to secure an MCCD.

If the case is referred to the coroner, s/he will have little option but to require a post-mortem examination to be performed in order to establish the cause of death and perhaps to obviate the need for an inquest.

"19 Post-mortem examination without inquest

(1) Where a coroner is informed that the body of a person is lying within his district and there is reasonable cause to suspect that the person has died a sudden death of which the cause is unknown, the coroner may, if he is of opinion that a post-mortem examination may prove an inquest to be unnecessary—

(a) direct any legally qualified medical practitioner whom, if an inquest were held, he would be entitled to summon as a medical witness under section 21 below; or

(b) request any other legally qualified medical practitioner, to make a post-mortem examination of the body and to report the result of the examination to the coroner in writing."

For the purposes of today I make clear that I am discussing the more usual "Coroner's PME" and not the "special" forensic post-mortem examination that will take place if a crime is committed. Special statutory rules apply to those, albeit that some form of diagnostic imaging may well be a most valuable adjunct to a conventional autopsy, but probably never a replacement for it.

Until recently, there was seldom an issue when a coroner ordered an autopsy to assist in establishing a medical cause for the death so that either the death could be registered without the need for an inquest (if the death was not violent or unnatural) or the case could proceed to inquest but the body could be released. However, increasingly there are those who object to an autopsy, whether for religious, cultural or other reasons.

There have been two recent (by which I mean within the last decade) reports about the death certification and coroner service, one by Tom Luce and the other by Dame Janet Smith subsequent to the Harold Shipman case. Much concern was expressed because Dr Shipman was able to certify the causes of death when the deaths were homicides. In due course this led Parliament to pass the Coroners and Justice Act 2009. It remains to be seen exactly how much of this act will be implemented but, even if it is, it does not alter the need for the coroner to establish the cause of death in the cases referred to him – probably by the Medical Examiner in future.

For some years in Manchester coroners there have been prepared to authorise MRI and or CT imaging techniques to see if they could provide a cause of death without the need for a coronial autopsy. You will hear more about the Manchester experience in a few minutes. However, many, including coroners, doctors and others, were concerned at the absence of any research that validated the techniques. "Trust me, I'm a doctor" is no longer a proper basis on which to proceed, if ever it was in the first place!

So, some research was needed to see if imaging techniques would provide reliable causes of death and if they would avoid the need for conventional autopsy and thus the distress caused to so many families faced with the need for an autopsy on a loved one. The Department of Health agreed to fund some research into imaging techniques and the work, about which you will hear later this morning, commenced in 2005.

In this country we have a very high rate of autopsy. In 2009

- 500,100 deaths were registered in England and Wales (E&W)
- 229,900 (46%) were referred to coroners
- 54% were certified by registered medical practitioners
- Of the deaths referred to coroners, 108,360 (46%) underwent autopsy **(i.e. c. 22% overall)**

The Fundamental Review Report of 2003 documents that the autopsy rate in England and Wales (then at 22.8%) was more than double the rate in every other country surveyed –

including Ireland, Canada, New Zealand and Australia, where rates varied between 7% and 11%.

Can we reduce our autopsy rate to levels seen in other developed countries without compromising our quest for accurate certification for a variety of purposes, including epidemiological and health care planning? Perhaps imaging techniques will help to achieve a reduction in the rate of conventional autopsy – but alternative techniques must provide reliable, scientifically-validated answers if they are to command authoritative support. Today's meeting should help to answer some of the questions and point the way for future research and progress.

However, it is, I suggest, most important that the undoubted enthusiasm for imaging techniques, especially among former senior politicians, and a natural desire to accommodate the desires of those who find autopsies repugnant for whatever reason, should not be allowed to override the need for a comprehensive understanding of the risks and disadvantages as well as the benefits of the imaging techniques.

Thank you.

