



Pathology Biology Section – 2003

G21 Discrepancy Between the Legal and Medical Definitions of Homicide

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The goals of this presentation are to compare the manner of death as certified by a medical examiner (ME) on a death certificate to a district attorney (DA) charging decision and final disposition of the case in the court system; and to measure the frequency of and identify factors contributing to any disparity in classification of homicide by medical examiners and prosecutors.

Hypothesis: Medical examiners and district attorneys have differing responsibilities and interests in processing homicidal deaths, which results in disparity between the medical examiner classification as homicide, and the legal definition for the purpose of criminal justice.

Methods: All cases certified by the Milwaukee County Medical Examiner's Office as homicide; accidental motor vehicle deaths and accidental firearm deaths from 1990 through 1999 were matched to cases presented to the homicide unit of Milwaukee County District Attorney's office from October 14, 1991 through 1999.

Results: Of the 1247 cases certified as homicide by the ME, 766 were matched to the corresponding DA homicide cases. Approximately 40% of cases were not matched. Factors influencing successful matching included apprehension of perpetrator(s) and prosecution in adult court. In a sample of 67 homicide cases reviewed but not charged by the DA's office, almost half (47%) were determined to be selfdefense, 26% insufficient evidence, 11% no defendant or death of the defendant, 3% accidental shooting, and 13% other.

Conclusions: There is significant variation in how medical and legal practitioners define "homicide." This variation results from the different goals of the practitioners as expressed in levels of intentionality and differing burdens of proof (reasonable medical certainty vs. beyond a reasonable doubt) that contribute to variations in definition of homicide. The effect of such variation requires additional research.

Homicide, District Attorney, Medical Examiner