



G46 Wrongful Convictions and Pediatric Forensic Pathology: The Canadian Experience

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After attending this presentation, attendees will understand of how inadequate training and supervision, difficulties in the communication of opinion evidence, and problematic areas in pediatric forensic pathology may result in wrongful convictions. Those in attendance will enhance their understanding of the ways to improve the interaction between forensic scientists and the criminal justice system.

This presentation will impact the forensic community by exploring the recommendations of the Inquiry into Pediatric Forensic Pathology conducted by appellate court Justice Stephen Goudge in Toronto, Ontario, Canada, which are likely to have a significant impact on the prevention of miscarriages of justice on an international level.

As a result of the identification of serious errors in the postmortem reports and testimony of Dr. Charles Smith, a pathologist called by the prosecution in several child homicide cases in Ontario, Canada, the provincial government convened a public inquiry to address systemic issues in order to prevent the recurrence of such tragedies. Between November 2007 and February 2008, the Commissioner heard from government officials, prosecution and defense counsel, police officers, judges, and law professors as well as the internationally recognized forensic pathologists who were involved in the review of the specific cases. Research papers on a variety of topics were received and policy roundtable discussions conducted. Dr. Smith himself also gave evidence regarding his efforts and explanations.

The investigation of suspicious deaths in children presents many complex challenges for all concerned, including the need for proper training and certification of the forensic pathologist, evolving and sometimes controversial issues in pediatric forensic pathology, the difficulty in choosing appropriate language to characterize the level of certainty of an opinion regarding cause of death and the dangers of “tunnel vision.”

Evidence at the inquiry identified a variety of approaches to address these problems. The implementation of a comprehensive postmortem report format detailing all opinions and the basis for same ensures a standardized methodology for the timely communication of autopsy findings. A vigorous peer review process prior to the release of such reports contributes significantly in validating the conclusions. The principles of evidence-based medicine provide an important standard to implement and ensure the requisite degree of reliability for a court considering opinion evidence on issues involving pediatric forensic pathology. Appropriate measures of accountability are necessary to identify and deal with those circumstances in which the pathologist's practices may be deficient. Continuing education for counsel and experts will assist in avoiding misunderstanding of their respective roles and participation in the trial process.

While the inquiry received considerable publicity in Canada, the lessons which may be learned from these unfortunate events should be shared with the international forensic community in order to achieve the objectives of fairness and justice for those charged with criminal offences.

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