



Jurisprudence Section - 2016

F13 Good Cop, Bad Cop — Forensic Pathology of Law Enforcement-Associated Deaths and Case Review

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After attending this presentation, attendees will better understand how medical examiners and consulting forensic pathologists scrutinize high-profile police-associated fatalities and how a systematic structured review system may improve the analysis of such cases.

This presentation will impact the forensic science community by suggesting possible methods to improve public confidence in final official conclusions in law enforcement-associated deaths while also enhancing ultimate case resolution in the justice system.

Among the most challenging of forensic science cases are those involving police agencies and use of force, especially when a victim dies during the interaction. Such cases then become high profile and are thrust into the media with intense scrutiny and opinions expressed. Recent months have seen a seemingly alarming rise in such cases, resulting in national attention and demands for reform as cases wind their way through the investigative process and into the justice system.

American penal reform was championed prior to the establishment of the United States by General James Oglethorpe (1696-1785). After a distinguished military career, Oglethorpe was elected to the British Parliament in 1722 where he championed penal reform (particularly for debtors) and humanitarian causes (anti-slavery, anti-impresment, and anti-alcohol), eventually creating the Colony of Georgia in 1733 with the objectives of philanthropy, military, and commerce. Indeed, the resulting city of Savannah was the first planned city in the present United States. The envisioned egalitarian community had certain core values at its inception: equal lands, banishment of slavery, fair trade with the indigenous population, prohibition of intoxicating liquors, and no lawyers. As so often happens, the best-laid plans went astray and Oglethorpe's vision of a promised land in which previously incarcerated debtors might receive a second chance went by the wayside as the opportunity attracted more middle-class settlers to Georgia. Most notably missing was the vision of equality for all under the law — civil and criminal equality is an ideal still sought in the present day. As such, Oglethorpe's desire was to be "free from that pest and scourge of mankind called lawyers." Oglethorpe and the Trustees (of Georgia) detested them, believing each colonist was capable of pleading his own case.¹ This seems an extreme non-sequitur, owing to the colloquialism, "A man who is his own lawyer has a fool for his client."

As recent police-related death cases have demonstrated, many in the population decry the lack of a classless utopian society — exhibiting a distrust of the police and doubting their ability to conduct impartial, unbiased investigations. Additionally, many jurisdictions utilize professional medical examiners employed by governmental entities, including law enforcement agencies. Small wonder there are those who doubt the "official version" of events once they are made public. In such situations, the only logical and reasonable recourse to redress grievances is to seek counsel from those with the skills and understanding to assist in such efforts. A structure allowing for open and thorough investigation of police-involved deaths, utilizing qualified and knowledgeable objective experts to scrutinize such cases could assist in resolving many questions in such matters and may provide the additional benefit of streamlining the flow of the case through "the system," eventually saving time and resources by anticipating potential pitfalls and concerns, thus restoring a sense of fairness.

Several examples of adverse outcomes in law enforcement-associated deaths are presented and discussed, including their eventual final resolution. These cases, reviewed from the perspective of expert forensic pathologists, are then analyzed in the context of a possible review system affording a multi-disciplinary assessment of the use of force and end result, with the ultimate goal of improving public confidence in the conclusions while enhancing both criminal and civil justice resolutions.

Reference(s):

1. <http://www.visit-historic-savannah.com/savannah-history.html>

Police, Deaths, Force