

Office of the Attorney General
Mr Kevin McGinty
20, Victoria Street
London
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28 November 2010

The unnatural death of Dr David Kelly: For the attention of the Attorney General

Dear Mr McGinty,

I am writing to the Attorney General as an individual whilst Ms Frances Swaine of Leigh Day & Co assembles the many omissions, contradictions, untruths etc that are of a general nature, rather than being specifically medical or forensic. Those have been dealt with in large part by the memorial.

I had time to study the post-mortem report made by Dr Hunt and the toxicology report made by Dr Allan at leisure after they were released by the Minister of Justice. It was the same day the latter informed Leigh Day & Co that all the various medical records we had requested from his predecessor in January 2010 would not be made available to us. The two reports were published right across the main stream media and in an entirely uncritical manner by the journalists and commentators. Our detractors had criticised us for causing possible distress in Dr Kelly's loved ones by persisting in our plea for a proper inquest. It was obviously considered acceptable at the Ministry of Justice for many people to be able to read that Dr Kelly was circumcised and that some pubic hairs were plucked, presumably to check for DNA so that recent intercourse could be ruled out. No distress was likely caused to the family? When we asked for medical records of all categories, we had undertaken that they would remain confidential. Whatever, some proportion of the public might have been persuaded that the forensic examination of this unnatural death, and the presentation of the facts, were meticulous. They would not have known that Dr Allan's toxicological report was recited at the Hutton Inquiry over 7 years ago, and that a good deal of Dr Hunt's PM report was also included in the Hutton Inquiry. The following was included in a very brief press release to those outlets interviewing myself :-

'Publication has not added one whit to due process in this case. It is extraordinary that these two reports have been published. The law has not been served even in the least way'.

Fellow citizens will not be aware of these facts I have gleaned from the two reports or be cognisant of the questions that follow about another very important matter.

THE TESTING OF THE BLOOD FOR THE TWO COMPONENTS OF CO-PROXAMOL AND THEIR METABOLITES

Dr Allan refers to these blood samples in his report -

NCH/43 Heart blood

NCH/44 Blood fluoride oxalate

(Page 1 Ends)

NCH/46 Blood-EDTA

NCH/47 Plain Blood

The missing numbered sample is in fact included in Dr Hunt's PM report

NCH/45 Blood-EDTA

1. Why was the site of sampling only noted in one instance - NCH/43 Heart blood?

Forensic toxicologists and forensic pathologists of excellence know that the site of sampling may be critical in producing elevated levels – eg if the blood is taken from the great vessels close by the stomach.

2. Why was there no attempt to discuss the reported levels of paracetamol and dextropropoxphene in relation to time of death (TOD)? Perhaps this would have been uncomfortable for Dr Hunt who measured the rectal temperature AFTER he had been with the corpse for six and three quarter hours, thus widening the estimation of TOD considerably. His negligence in this would, perhaps, have been made clear.

This is an extract from page 12 of Dr Hunt's PM report published by Mr Clarke in 'order to maintain public confidence in our justice system' (paraphrase).

TOXICOLOGY

At the time of completing this report, I have been provided with the following verbal information by Dr Alexander ALLAN, a forensic toxicologist from Forensic Alliance Limited.

- The blood sample contains the drug dextropropoxyphene at a concentration of 1.0 micrograms per millilitre.
- The blood sample contains the drug paracetamol at a concentration of 97 micrograms per millilitre.
- Paracetamol is present in the stomach contents.
- No alcohol has been detected.
- The results of the analysis for volatile chemicals is still pending.

In addition, I have been provided with a copy of the formal statement of Dr ALLAN dated 21st July 2003 and given the laboratory reference FAL-05969-03

A range of therapeutic and non therapeutic drugs were looked for as detailed in the statement. In addition, the blood has been analysed for the presence of volatile chemicals.

The levels of dextropropoxyphene and paracetamol in the blood were confirmed as above.

Acetone was found in the stomach contents.

This is a relevant extract from page 2 of Dr Allan's report -

Results

The following substances were found in the blood, item NCH/47, at the stated concentrations:

paracetamol	97 micrograms per millilitre of blood
dextropropoxyphene	1.0 " "

Also present were dextropropoxyphene-related substances such as metabolites and breakdown products, and caffeine.

You will see that Dr Allan refers to the levels of these drugs in a SINGLE blood sample and that Dr Hunt in referring to Dr Allan's work does the same.

3. Why did four out of five blood samples go unexamined? Someone who judged this part,

the 'inquiry into the circumstances of the death of Dr David Kelly' as a travesty of British justice, might say that the results on this single sample showed the highest of low levels.

THE TWO OBSERVED POSITIONS OF THE CORPSE

Lying adjacent to this was a white metal Sandvik pruning-type knife, or gardener's knife, with its blade extended from the handle. There was bloodstaining over both the handles and the blade and a pool of blood beneath the knife which was approximately 8-10 by approximately 4 - 5 cms.

This is but a small part of the 'blood' evidence from Dr Hunt's PM report. There is incontrovertible evidence from the two searchers who were the first to find Dr Kelly's corpse, Ms Hunt and Mr Chapman, that it was 'sitting slumped against a tree' (Hunt) or 'sitting up against a tree' (Chapman). Both noted blood on the left arm. They did not speak at the Hutton inquiry of any bottle of Evian water, knife or wristwatch. Mr Barrett, the paramedic, observed that was enough room for him between the tree and the head of the corpse to allow him to attach the leads of an ECG machine to check for life.

Many questions centre on the movement of the corpse. That these were never asked at the Hutton inquiry condemns it as being a wilful miscarriage of justice; no coroner could have let this matter go unresolved.

4. People who are dead no longer bleed from anywhere. If Dr Hunt observed a pool of blood close to the left hand and if that blood was proven by DNA testing to be that of Dr Kelly, then he must have bled and died in the position described by Dr Hunt and others. Why was the corpse first found sitting slumped/sitting against the tree?

Conclusion

It would be mild of me to say, as I often do publicly, that many questions went unasked and many answers went unquestioned. This exemplifies the latter very well :-

5.

22 Q. You have already dealt with this, I think, but could you

23 confirm whether, as far as you could tell on the

24 examination, there was any sign of third party

25 involvement in Dr Kelly's death?

29

1 A. No, there was no pathological evidence to indicate the

2 involvement of a third party in Dr Kelly's death.

3 Rather, the features are quite typical, I would say, of
4 self inflicted injury if one ignores all the other
5 features of the case.
6 Q. Is there anything else you would like to say concerning
7 the circumstances leading to Dr Kelly's death?
8 A. Nothing I could say as a pathologist, no.
9 LORD HUTTON: Thank you for your very clear evidence,
10 Dr Hunt.

It is much worse than this example and 'travesty' will have to do. I plead again for a new inquest into the unnatural death of this highly esteemed public servant. We might then believe that public confidence in our system of justice has been truly restored.

Yours sincerely

David Halpin MB BS FRCS

ps to my e-mail sent at midnight last night.

- a. I have noted the Attorney General is 'minded to seek the expert view of a forensic pathologist.' I take it this person will be entirely independent of government and not in receipt of income from the Home Office or a government funded agency. It is worth underlining the fact that the doctors making this plea have no pecuniary interest in this case whatsoever.
- b. I take it as read that he or she deals with the many omissions and contradictions in this case, including those posed above.
- c. I suppose the absence of appropriate and sufficient questions from the QCs, as in the final part of Dr Hunt's evidence, is for your office to judge.
- d. We have been pleased that Dr Hunt has concurred with our view that a new inquest should be called. He stated this in March 2004 to Channel 4 News staff, and again during this last summer.

This letter will be sent by Royal Mail as well.

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