INQUIRY INTO PEDIATRIC FORENSIC PATHOLOGY IN ONTARIO

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INTERVIEW SUMMARY
DR. MARTIN QUEEN

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Background & Overview of Career

HSC – Anatomical Pathology Rotation

From October to December 1990, Dr. Queen did a three-month rotation at the Hospital for Sick Children ("HSC") in basic anatomical pathology.

During his rotation at HSC, Dr. Queen had limited exposure to Dr. Smith. Dr. Queen had first met Dr. Smith in 1988, when Dr. Queen was interviewed for the residency-training program. Dr. Smith was the head of the program at the time.

TGH - Cardiovascular Pathology Rotation

From January to June 1992, Dr. Queen participated in an elective rotation in cardiovascular pathology at Toronto General Hospital.

Coroner's Office – One-Month Rotation

In June 1992, Dr. Queen completed a one-month rotation in forensic pathology at the Office of the Chief Coroner ("OCCO"). During this rotation, forensic pathology residents had contact with the staff pathologists.

In Dr. Queen's view, for a resident interested in practicing forensic pathology, the forensic training he received in anatomical pathology was insufficient. Dr. Queen

indicated that he spent the month at the OCCO as an observer. He did not participate in post mortem examinations. There was no hands-on experience.

Baltimore ME – Forensic Pathology Training

In 1992, Dr. Queen graduated in a class of thirteen anatomical pathologists. At that time, there were not many pathology positions available, and the competition for the positions was intense.

After graduating from the pathology residency program, Dr. Queen did locums at Oshawa General Hospital, Women's College Hospital and St. Michael's Hospital. Because of budgetary cutbacks and a lack of funding for pathology residents, Dr. Queen was not offered a fulltime position in pathology.

Between 1994 and 1995, Dr. Queen practiced family medicine in Muskoka. Dr. Queen became unsatisfied as a family doctor and sought to re-enter the field of pathology. However, in order to get a job in pathology, Dr. Queen realized that he would need to sub-specialize by completing a fellowship.

Dr. Queen sought counsel from Dr. Chiasson, then Chief Forensic Pathologist, in Toronto, to discuss opportunities. At the time, Dr. Chiasson was trying to restructure the OCCO. One of his initiatives was to reduce reliance on part-time pathologists and to hire only those who were board-certified. Dr. Chiasson suggested that Dr. Queen complete a forensic pathology fellowship in Baltimore.

In 1995, Dr. Queen made the decision to train in forensic pathology in Baltimore with the Medical Examiner's Office ("ME").

In Baltimore, the forensic pathology fellowship was government subsidized. Although the fellowship was state-financed, the fellows were not paid well. Despite the low pay, the program is always able to attract fellows.

Due to the high number of homicides (drug and gun-related), Baltimore is ideally suited for forensic pathology training.

The state's small size also contributes to the immediacy of the experience. The state of Maryland is not a large geographic area. It would take approximately five hours to travel from one end of the state to the other. As most of the homicides occur in the city of Baltimore, bodies would ordinarily arrive at the morgue in less than two hours.

Baltimore ME - Duties and Training

Dr. Queen entered the fellowship program at the Baltimore ME's office with four years of anatomical pathology training, but no training in forensic pathology (other than the three-month rotation at the OCCO). Baltimore accepted fellows

with little background, and the fellows were given immediate, hands-on experience. There was help available from pathology assistants and the full-time medical examiners.

The fellowship program offered the following features: formal rounds in both the morning and afternoon; training; conferences paid for by the University of Maryland; access to all old exams of the American Forensic Board; and lectures. However, there was no introductory orientation; fellows were expected to commence working on autopsies from the first day of the program.

On his first day, Dr. Queen was given a hanging case. On his second day, he was given a complicated homicide in which the victim had sustained several gunshots, had been run over several times, had multiple sharp force wounds, had been left in a field, and had decomposed.

In complicated cases involving a police investigation, the fellow would complete the program before the case would go to court. The fellow was not required to return to Baltimore to testify; supervising staff from the ME's office would be responsible for going to court.

On an average day, the ME's office would receive ten bodies. Each fellow would get one homicide case per day.

At the beginning of the fellow's program, an ME would be present while the fellow performed post mortem examinations, particularly when the cases were complicated. As soon as the ME felt confident in the fellow, the fellow would be left on his own to do the work. The ME would review the reports and compare the findings with the photos before giving approval. Once a fellow signed off on a report, it was rare for the results to be questioned by the ME.

In the ME system, trained lay investigators, not physicians, investigate at the crime scene. The Forensic Investigators Report issued during the investigation, which is equivalent to a Coroner's Warrant, would contain information collected by the investigator.

In the morgue, there would be stand-up rounds involving the three fellows, pathology assistants, and police. All present would stand around the body, discuss and conduct an external examination.

Baltimore ME - Reporting Procedures

The fellows would work all morning conducting their post mortem examinations and prepare their reports in the afternoon.

Dr. Queen indicated that the fellows were expected to have a final report completed within five working days, after they examined the body. At the time of signing off on the report, the toxicology was complete.

This turnaround time was made possible because the Baltimore ME had an integrated toxicology service. The toxicology department was in-house, and had the equipment to test quickly. For instance, in a case of carbon monoxide poisoning, Dr. Queen could order a carbon monoxide screen and the results would come back in 15 minutes. Other toxicology screens, e.g. alcohol, were completed within five working days.

Dr. Queen could not comment on financial resourcing in Baltimore that allowed for the quick turnaround.

When Dr. Queen started working in Ontario, he was shocked at the long turnaround of up to nine months for toxicology.

Baltimore ME - Compensation

American MEs are not paid as much as pathologists in Canada. According to Dr. Queen, MEs still earn less than half of what he makes, as a hospital-based pathologist.

The low ME salaries contribute to staffing and retention issues. Nevertheless, Baltimore can still draw fellows due to its prestige as a forensic pathology centre. Although their salaries have increased, the Baltimore forensic pathologists are still not on par with Canadian forensic pathologists.

Dr. Queen indicated that of the ten pathologists who were with him in Baltimore during his fellowship, only four are still there.

Baltimore ME - Staff

The Baltimore ME staff included the Chief ME, the Deputy ME, the Assistant ME, three fellows, pathology assistants, and the toxicology staff.

There were separate facilities for DNA and firearms testing. Baltimore had a great x-ray unit.

In contrast, the Toronto Forensic Pathology Unit (“TFPU”) rarely did x-rays. .

In the Baltimore ME’s office, there were two full-time photographers. The photos were taken in black and white.

The photographers were so experienced that they did the front-end screening on their own. Photography was even done before the cutting. After photography, the body would come to the pathology fellow.

In addition to the fellow, an assistant, several police and possibly an ME would be present at the autopsy.

Dr. Queen could not recall protocols for note-taking. He could not recall what was formally documented. Note-taking was never taught as part of the fellowship. He cited the area of note-taking as a weakness in the teaching component. There was little emphasis placed on ensuring accurate note-taking for disclosure purposes.

Dr. Queen testified twice in court as a fellow. He had no practical training for the court appearances. On his own initiative, he spent some time reviewing videotapes of other pathologists testifying in court, and he learned from those tapes. At his first court appearance, he was complimented on his testimony by the judge.

Dr. Queen reported that the assistants in the autopsy room would collect the evidence and samples and do the swabbing. The assistants were also responsible for logging information.

Fellows would remove the bullets, put them in containers, and give the bullets to the police on the spot. They would also mark the bullets.

Dr. Queen stated that he received little training on the court system, which was not surprising since fellows are trained by other doctors, not lawyers. Being a doctor doesn't mean that one will necessarily be a good witness. The fellows' training is focused on pathology.

Although there is some affiliation with University of Maryland, there is no direct association with the medical school. Some medical students would come through the ME's office. Fellows also did teaching.

With respect to research, there was pressure on fellows to publish. The fellows did not have a lot of time to work on research; however, Dr. Queen did publish a paper on overdose cases caused by new anti-depressant medications.

In June 1996, Dr. Queen completed his fellowship and wrote his Boards.

OCCO - TFPU

In August 1996, Dr. Queen started working for the OCCO-TFPU.

In his training, Dr. Queen saw some pediatric cases, which were often the result of car accidents. He did not deal with shaken babies or other suspicious infant homicides. His training in Baltimore was in adult forensic pathology.

In Baltimore, there was one woman who specialized in pediatric forensics. The pediatric cases usually went to her. Dr. Queen never became comfortable with pediatrics.

Dr. Queen supports the notion that pediatric forensic pathology is a discrete sub-speciality within forensic pathology. If he were to move to HSC, he believes that he could probably handle 90% of the cases; however, the last 10% would pose a problem.

Sharon's Case

The Autopsy

By coincidence, Dr. Queen was on-call the weekend the first autopsy in Sharon's case was performed at the TFPU. It was the only time in his three years at the OCCO that Dr. Queen remembers Dr. Smith performing an autopsy there.

Dr. Queen was in the autopsy room conducting his own post mortem examination at the time that Dr. Smith performed the autopsy. He remembers some talk about scissors and dog bites. He has no specific memory of looking at the body or discussing the wounds. His opinions were neither sought nor offered.

Dr. Queen did recollect that during the autopsy, the police made denigrating comments about the mother, i.e., that she "hung out with bikers".

OCCO Meeting

Dr. Queen recalls that at some point after the autopsy in Sharon's case, Dr. Chiasson asked him if he would like to sit in on a meeting.

Dr. Queen was the most junior person at the time having just returned from Baltimore. He assumed that he was invited to the meeting for purely educational purposes.

Dr. Queen went to the pathology boardroom. He recalls that approximately twelve people were in the room including Drs. Chiasson, Smith, Cairns, Blenkinsop and Woods. Also present were Maureen, the pathology assistant, and several police.

Dr. Queen does not know who called the meeting, and he does not remember who ran the meeting. He has no memories of what was said by Drs. Smith,

Cairns or Chiasson. Dr. Queen only has specific memories of the views expressed by two people – Mr. Blenkinsop and Dr. Woods.

Dr. Queen has no specific memories of what was said about the circumstances of the case. Dr. Queen was aware at some point that there was a dog at the scene, that there was something red around the dog's mouth, and that there was a lot of blood at the scene.

Dr. Queen does remember that when the photos were sent around the table, people were asked to comment. He remembers post mortem examination photos of the body and the injuries. He remembers that Mr. Blenkinsop was adamant that the wounds were not dog bites. This same opinion was echoed, albeit less vociferously, by Dr. Woods.

Dr. Queen had never performed a post mortem examination following a fatal canine attack. His only experience with canine activity had been post mortem cases where dogs had bitten or chewed on a dead body.

Mr. Blenkinsop and Dr. Woods had some canine experience; specifically, a fatal wolf attack. Their opinion was that Sharon's injuries were not caused by a canine.

At the meeting, Dr. Queen said that he felt there was a repetitive pattern to the wounds that was inconsistent with a human attack, that the wounds were possibly dog bites. He stated that the injuries could be dog bites. However, he did not express his opinion too strongly, and he did not argue the point.

Dr. Queen was also concerned that the photos may not have been of high quality.

In response to Dr. Queen's comments, Mr. Blenkinsop and Dr. Woods reiterated their position that none of the marks on the body were dog bites.

In retrospect, Dr. Queen wonders if Dr. Smith may have been influenced by Mr. Blenkinsop and Dr. Woods and the police at the time of autopsy.

Assessment of the Report on Sharon's Case

Dr. Queen had occasion to read Dr. Smith's report on Sharon's case, around the time of the exhumation and second autopsy. He found it unsatisfactory with respect to descriptions of the wounds.

Dr. Queen was critical of Dr. Smith's description of the wounds as the description failed to properly describe the wounds. There was insufficient information regarding the depth of the wounds. There was no proof from the description that

these were even stab wounds. He felt the language of the report was conclusory, not descriptive.

Dr. Queen would have liked to see more factual language in the report. The basic terminology such as “cluster”, “depth”, “range”, “orientation”, “sharp" and "blunt” was missing in the report.

Dr. Queen remembers saying to Dr. Chiasson, at the time, that given the absence of depth descriptors, you would not even know that these were stab wounds.

Dr. Queen remembered that a cast had been taken of Sharon’s skull, but it was lost.

Personal Experience with Dr. Smith

Delay

While some systemic delay is built into the process, e.g., having to wait for toxicology from the Centre of Forensic Sciences and backlogs, Dr. Smith’s backlog was greater than others. Dr. Queen would hear grumbling all the time about getting reports and consults back from Dr. Smith.

Dr. Queen himself experienced delays in getting reports back from Dr. Smith. He indicated that he would speak to Dr. McLellan whenever he had problems with Dr. Smith’s delay. He had known Dr. McLellan since 1977 when they were in medical school.

In a Sudbury case, four years ago, Dr. Queen only needed confirmation of a medical disorder from Dr. Smith in order to complete his own report. However, there was a significant delay in getting the report from Dr. Smith. Dr. Queen spoke to Dr. McLellan to get the results from Dr. Smith. When Dr. Queen finally received the results, the findings were the same as his own and no metabolite screening had been performed.

Conflicting Results

When Dr. Queen was working in Toronto, he had problems with Dr. Smith due to the delay. He also often disagreed with Dr. Smith’s results.

For example, Dr. Queen had a case of a child with a sudden gastric bleed and changes in the heart. He concluded that the gastric bleed was primary and the heart problem secondary. When Dr. Smith was asked to review, he found the converse. The heart was primary and the gastro-intestinal bleed was secondary.

General Impressions

Dr. Queen's preliminary impressions of Dr. Smith were positive. Dr. Queen got along well with Dr. Smith and found Dr. Smith to be very pleasant. Dr. Queen believes that Dr. Smith would have been impressive in court, but he never actually saw him testify.

Dr. Queen had the impression that Dr. Smith took a personal interest in ensuring that people were punished for harming children.

Dr. Queen recalls that Dr. Smith was very upset about the Julie Bowers case. At the time of the trial, Dr. Queen was a resident at HSC. Dr. Smith's reaction was a real contrast with his normal conduct. Dr. Smith reacted strongly to an article that reported that the child may have been alive during the autopsy.

Dr. Queen had a conversation with the police chief in Sudbury about a case involving Dr. Smith. From that conversation, Dr. Queen formed the impression that the police were reluctant to press charges due to concerns regarding Dr. Smith's opinions.

Systemic Issues: Suggestions for Improvement

Dr. Queen suggested that there must be a concerted effort by pathology residency programs to recruit medical students to apply. Further recruitment efforts must be made to encourage pathology residents to enter the field of forensic pathology.

Dr. Queen also suggested that there should be training in Canada that is recognized by the American Board. In addition, the commitment of those in the field must be supported by proper training and accreditation.

Regional Centre

The Northeastern Regional Forensic Pathology Unit is still informal. The grand opening took place on June 14, 2007 and the Unit was officially named. The Centre remains housed in three separate sites in three hospitals.

At this point, the Unit has no contractual agreement with the government or the OCCO. Capital improvements are paid for by the Hospital.

The Unit has ten self-employed pathologists. Dr. Queen does forensic work for the Unit.

The Unit performs all autopsies for the Sudbury-Manitoulin region. The Unit also performs all of the pathology for Timmins. The Unit does homicides, suspicious cases and decompositions from North Bay and Sault St. Marie. The Unit serves

as the centre for all homicides, suspicious cases and complex cases from northern areas. Pediatric cases go to HSC.

With respect to the geographic challenges, such as the ability of regional coroners to service the northern area, Dr. Queen reported that the situation in the north is tenuous and that the region has staffing problems.

Dr. Queen expressed concerns regarding the challenges facing the field of pathology. There is an ongoing shortage in all areas of pathology, a need to encourage and expose students to the field, and a special consideration that must be given to staffing in under-serviced areas.

Not only must improvements be made in the short term to enhance the current situation, but long-term improvements over the next ten years must be considered as well.

Staffing needs are a particular concern. The field is very competitive, and institutions compete for pathologists. Even the new medical school will not address the issue of staffing as few graduates actually enter the field of pathology.

There should be a focus on retention of the current workforce.

Coroner vs. ME System

Dr. Queen mentioned that he felt there was a need for this discussion/debate to take place. While it may not be practical to do a full systemic replacement, it is important to identify strengths in the ME system and implement those practices wherever possible.