

Observations on correspondence between Mr Nicholas Gardiner, Coroner for Oxfordshire and the Department for Constitutional Affairs (DCA) David Halpin FRCS

pdfs of the correspondence are attached.

There are many valid points to make but I will attempt brevity.

This commentary with faxed images of letters -

Sarah Albon DCA to Mr Gardiner 4 August 2003

Mr Gardiner to Ms Albon 6 August 2003

Ms Albon to Mr Gardiner 12 August 2003

Coroner's Certificate 16 April 2004 Mr Gardiner to Registrar of Deaths

and an attachment of a record from the General Medical Council in the case of Dr Kenneth Shorrock Forensic pathologist.

(The images of the above letters can be transmitted digitally to the office of the Attorney General with forewarning. They are 'timed' out ordinarily. It is possible that office has the correspondence already.)

1. We are reminded the coroner

- a. opened the inquest 21 July 2003
- b. adjourned it 14 August and
- c. 16 March 2004 http://news.bbc.co.uk/1/hi/uk_politics/3513812.stm

“But Mr Gardiner had concluded there were "no exceptional reasons" for the inquest to be resumed...

He added that an inquest would have done little to halt the controversy over Dr Kelly's death and he asked that Mrs Kelly and her family be now allowed "to grieve in peace".”

Comment. No transcript of one or more of these three hearings is in the public domain. I understand they have been requested by several people. Has justice been seen to be done?

2. The coroner is seen to have been pressed by Ms Albon of the DCA to adjourn. There appeared to have been urgency in this demand fitting with the alacrity with which Lord Falconer instructed Lord Hutton that the latter was to head an inquiry. We know the form of that inquiry was changed in the following weeks. We are reminded that the speed with which this ad hoc inquiry was set up contrasts with those other inquiries to do with the illegal war on Iraq. There is one common factor. No oaths were taken at any.

3. The coroner reminds the DCA that he has the advantage of compelling witnesses to attend and tentatively offers Lord Hutton help in that way. He does not mention the oath which I read was taken only by Assistant Chief Constable Michael Page - Thames Valley Police.

4. In the letter of 6 August 2003 from Mr Gardiner to Ms Albon, he says "If I am asked to comment on the reason for the adjournment out of court, I shall of course decline to do so, but you might wish to prepare for any Press inquiries." Mr Gardiner had told Ms Albon that he envisaged completing his inquest in September 2003. As it happened, the nation had to wait until February 2004 for Lord Hutton's report in which only half of one day was given over exclusively to medical evidence.

5. In that same letter, Mr Gardiner says "**The preliminary cause of death given at the opening of the inquest no longer represents the view of the Pathologist and evidence from him would need to be given to correct and update the evidence already received.**"

We have had the post-mortem report and causes of death revealed through all media channels 22 October 2010. That report is dated 25 July 2003. The same causes of death were recited in the flawed death certificate and at the Hutton inquiry.

It is evident the opinion as to the cause of death as given by Dr Nicholas Hunt, Home Office approved forensic pathologist, was changed in the four days between the opening of the inquest 21 July 2003 and 25 July 2003, the date of the 'definitive' opinion. Why was it changed and in what way was it changed? The reasons might be entirely innocent but that original opinion, the fact that it had been changed and the rationale for that change should have been brought to the Hutton inquiry. There is no hint in the transcripts that the opinion had changed.

This is a serious matter and it is compounded by the absence of any records from the coroner's court in Oxfordshire. There are parallels with the case of Dr Kenneth Shorrocks who was accused by the General Medical Council of serious professional misconduct on eight counts. He had produced a second post-mortem report on a hospital patient which was indicative of negligence by the surgeon without any reference to his first report which had exonerated the surgeon. After much delay he was found guilty and warned. I believe there are grounds for reporting Dr Hunt to the General Medical Council for this lack of openness.

"evidence from him would need to be given to correct and update the evidence already received." But that was not to happen in the Hutton inquiry further demonstrating the superiority in law of coronial inquest over ad hoc inquiry.

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