

Medico Legal Aspects of Homicide Investigation

* Dr. T.K.K. Naidu, MD, L.L.B.

* Professor & Head, Department of Forensic Medicine
Prathima Institute Medical Sciences, Nagunoor, Karimnagar - 505 417.

Abstract

In present day world due increase crime rate, at almost a crime ever 3 minutes in our country, it is essential for the forensic experts to have extensive knowledge of patterns of crime, mode and manner of crime and scientific method to detect it and bring the accused to justice in fastest possible time. In the entire process of administration of justice system only the forensic expert is a medical and medico legal man playing very curial role in solving crime mystery. Unless he is well versed with all steps of justice system he cannot do justice to his subject forensic medicine in particular and society. In general... Even if one crime case is solved and accused brought to justice hundred crimes can be prevented.

Key words

Homicide, injuries and autopsy

Forensic medicine is the application of the science of pathology to the needs of law and justice, in trial of sudden, violent deaths and unnatural suspicious deaths. This definition is not only applicable to criminal cases but applied also to all kinds of life or accidental insurance, employee's compensation acts and other civil procedure disputes.

The forensic medicine has to deal with

Reprint requests: Dr. T.K.K. Naidu

Professor & Head, Department of Forensic Medicine, Prathima Institute Medical Sciences Nagunoor, Karimnagar - 505 417, A.P.
E-mail: naidutkk@yahoo.com.

a wide spectrum of deaths. He sees deaths due to suicides, homicides, accidents and also the sudden unexpected and unwitnessed deaths. As Adelson has pointed out while there is only one way to be born, there are many ways to die. To those people who have regard and respect of human life, the present situation is tragic and pitiful spectacle. While the forensic expert is interested in finding the cause manner and time since of death in all varieties of cases, that caused by violence particularly these type of cases which attract the public and news agencies attention, throwing a great responsibility on the shoulders of investigating officers and the forensic expert.

Every one is aware that medicine is a social science which deals with the health of the human being, prevention of the disease and treatment of the sick and the injured. In homicide there is violence, brutality and criminality. Homicide and medicine are closely associated with one another in the work of forensic medicine department. His primary duty and responsibility in such cases is not only to find out the cause, time and manner of death, but also to search and preserve evidence which gives any clue for the apprehension of the offender. Many medical officers feel that their duty is only to conduct the postmortem and to give the cause of death. Medical officers

should give guidelines to the investigating officers in constructing the scene of the crime or in giving the clue for the identification of the offender such as foreign hair, buttons and stains etc. on the clothing and the body. But a trained forensic expert realizes the importance of preserving trace evidence that present on the dead body.

Present System of Investigation

Under the present system of investigation, the forensic expert is not called to the scene of crime. Our system of medico-legal investigation is far from satisfactory. A sub-inspector of Police is always busy as he is entrusted with multifarious duties and when he gets first information report, he passes on the preliminary investigation to a head constable whose educational qualification and scientific knowledge are not particularly high. He gathers some witnesses either by force or by persuasion and there may be some witnesses, who are not willing to talk to him. On the other hand there are some witnesses who readily give false statements for their own benefit and mislead the investigating officer. Under such circumstances, if a forensic expert is requested to come to the scene of crime along with first investigating agency; he will guide the investigating officer to approach in a scientific way. He will observe and collect the material scientifically and analyze and draw inferences or produce proof of facts. Hence a forensic expert with his sound scientific knowledge can render valuable service at the scene of crime. It is not the present first investigating agency which is at fault. It is our system of investigation which is at fault. We are not keeping pace with the

changing environment, civilization and pattern of crime. The office of the forensic expert is an obscure one in the present day. It does not attract the medical man or government or the politician. Financial support and staff pattern is far from satisfactory. The importance of the forensic medicine in the present day is not fully recognized by the government and the society. Consequently he is unable to import his scientific knowledge in the interest of justice.

Some Aspects of Killing

Every one is aware, that the homicides are on the increase. As Bernard Shaw aptly stated that evil is the product of circumstances. At present in India, the main causes contributing to criminal violence are property interests, broken homes, linguistic problems, faultily marriages, poverty, starvation and political differences. All of us desire to live in a decent orderly society administered by honest, energetic officials, and a sincere and capable judiciary. When a murder takes place, many of us react vigorously and respond promptly to search the offender and to punish him. But there are some people, who will hide the offender and allow false accusations to be made on an innocent person. A single police officer alone cannot investigate the case quickly, effectively and efficiently. Every citizen should help the first investigating agency. The medical officer, the various experts and even the lay public should associate themselves and work in co-ordination and co-operation to give their knowledge for that noble cause of "The defense of the innocent and the punishment of the guilty". At present we are working in

watertight compartments. We should really plan a medical examiner system that is now current in the United States of America with excellent results.

When a forensic expert participates in the investigation of a known or suspected murder, he functions as a member of a team of experts. The police detective is faced with the problem of tracing the accused and apprehending the suspects and getting information from the witnesses. Similarly the experts like the firearm expert, finger print expert, forensic expert, radiologists, chemical examiner, serologist, physicist etc., may be called into action in the investigation of a murder. In every case of murder and unnatural death, the services of the forensic expert are necessary. He has to prove the cause of death and demonstrate that the death was due to violence. Further he has to extensive scientific knowledge far beyond this and answers various questions. When an autopsy is done on a case of death due to injury caused by weapons, he has to find answer to the following questions: (1) was death due to injury caused by the alleged weapon? (2) Whether the person died before or after the injury? (3) What were the direction of the wound and the position of the assailant to the victim? (4) were there multiple wounds and if so which of the several wounds would have been responsible for the death? (5) What type of weapon was used, was it heavy or light, was it single edged or double edged and what was the length of the weapon? (6) How long person have lived after receiving the injuries? (7) Was there any disease which was contributory or responsible for death?

Necessity of Performing Autopsy

The forensic expert is often asked by his colleagues or lay persons, who are not aware of the worries of the people actively engaged in homicide investigation, why an autopsy should be carried out on an 'open and shut case, when it is known that the death was due to violence, the suspect had confessed, and the witnesses were there to substantiate. The forensic expert never treats a case as 'open and shut'. Even if the commission of crime is established with certainty, it is mandatory to perform an autopsy to substantiate the truth of the confession. The dead body will not lie. The autopsy constitutes a source of strength and not of weakness. It clarifies and illustrates evidence and so remains an invaluable procedure in the investigation of homicide. False statements and confessions due to fear are not rare in India. Moreover, at the time of trial, the confessions made by the accused or the witnesses may be retracted. As the dire penalties for murder vary from long-term imprisonment to death, it is necessary that a complete autopsy be performed on all cases of death due to violence. Incomplete or partial autopsy has no place in medico legal work. As pointed out by Hudson necropsy is the last court of a trial solves the mystery of death.

Long experience has taught the medical person, that there are some medico-legal masquerades. Many deaths from violence produce no external injuries or bleeding, but death might occur due to injuries to internal organs. Similarly, there may be no injuries, only minor ones externally, but the victim could have died of some natural cause,

like coronary occlusion or cerebral thrombosis and hemorrhage. Deaths from natural causes occur under such suspicious circumstances, as to suggest violence. Hence, only the forensic expert can distinguish between deaths arising from disease and those arising from violence. Sometimes, a homicide may be deliberately arranged so as to suggest suicide or accident and the converse is also possible. Many a time railway accidents are brought as cases of homicide and homicides described as accident. The forensic expert has to examine carefully the scene of crime and perform autopsy meticulously and confirm the truth or falsity of the statements given by the witnesses.

Forensic Medicine in the Court

The forensic expert is a fact finder and not a judge of facts. He cannot postulate the motive behind the trigger of a firearm. His duty is to present carefully the facts in the court in order to help the judge to reach a verdict. Many years ago Bourdel, a French medico-legal expert wrote "If the law has made a physician a witness, he should remain a man of science; he has no victim to avenge, no guilty person to convict and no innocent person to save". A forensic expert must bear testimony within the limits of science and be an impartial witness.

Conclusion

In our present system the forensic expert is called by the court as prosecuting witness, though he is an independent impartial witness. They appear neither for the prosecution nor the defense. He takes no sides. His main duty is to present the scientific evidence from the autopsy table and the

microscope to the court, un-emotionally, deriving nothing, withholding nothing. It is dangerous to get a remark from the judge, that a particular medical officer is hostile. His sole aim of giving medical evidence is to help the judge and to reach a just verdict. The forensic expert testify in a straight, unbiased, unprejudiced and balanced manner he will make a unique contribution to the administration of justice, which is the keystone of all democracy.

Reference

1. B. Knight. In: Forensic Pathology, Arnold, and London 191.
2. D. Forrest, B. Knight, G. Hinshelwood, J. Anand, V. Tonge. A guide to writing medical report on survivors of torture. Forensic Sci. In. 1995; 76:69-75.
3. J. Rainio, K. Lalu, A. Penttila. Independent forensic autopsies in an armed conflict: investigation of the victims from Racak, Kosovo. Forensic.Sci. Int. 2001:116:171-185.
4. Hans Draminsky Peterson, Olav Minor Vedel. Assessment of human rights violations in Kashmir. Forensic Sci. Int. 1994;68:103-115.
5. A.K. Agnithotri et al. Atrocities against women in Uttar Pradesh. Int. J. Med. Tox. & Leg. Med. 1999; 2(1):9-11.
6. Anil Kohli et al. Medicolegal aspects of female forticide. J. Forensic Med & Tox. 13(3&4):12-14.
7. National Crime Record Bureau, 2005.
8. Times of India, News Delhi, 27th October 2006 : 13

Legal Dictums

Justice delayed is justice denied
 Justice hurried is justice buried
 Justice protected will protect
 Ignorance of law excuse no one
 Be you ever so high, the law is always above you.

Justice Verma